SEVENTH INTERNATIONAL PRISON CONGRESS

HELD AT

BUDAPEST, HUNGARY, SEPTEMBER, 1905

REPORT BY

SAMUEL J. BARROWS

COMMISSIONER FOR THE UNITED STATES

Dept. of State

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REPORT OF PROCEEDINGS

OF THE

SEVENTH INTERNATIONAL PRISON CONGRESS

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COMMISSIONER FOR THE UNITED STATES ON THE INTERNATIONAL PRISON COMMISSION

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TABLE OF CONTENTS.

LETTER OF TRANSMITTAL.

INTERNATIONAL PRISON COMMISSION,
New York City, December 10, 1906.

SIR: I have the honor to present herewith a report of the proceedings of the Seventh International Prison Congress, held at Budapest, September 3–9, 1905, and to request that the same may be presented to Congress as one of the reports of the International Prison Commission.

I have the honor to be, sir, your obedient servant,

SAMUEL J. BARROWS,
Commissioner for the United States on the International Prison Commission.

Hon. ELIHU ROOT,
Secretary of State, Washington, D. C.

PREFACE.

The preparation of this report has been retarded by the delay in Europe in printing the full proceedings of the Seventh International Prison Congress, which at this date are not off the press. The writer, however, has had the advantage of seeing the proof sheets. These proceedings, including all the reports prepared for the congress, are published in several volumes in French. The report in English herewith presented is a translation and condensation of the main lines of thought and discussion; the conclusions as to each question are translated in full.

Absolute uniformity has not been sought in the use of titles. Sometimes they have been assimilated as far as possible to corresponding titles in America in order to give readers some idea of the official relations of the speaker; in other cases it has seemed best to retain the foreign title.

The official proceedings of the congress contain in addition monographs and reports in regard to the prison systems of various countries, with bibliographies of penological literature. Those wishing to avail themselves of the detailed discussions and the valuable body of facts and opinions contained in the proceedings may find them in the most important American libraries.

SAMUEL J. BARROWS.

DECEMBER 10, 1906.

THE SEVENTH INTERNATIONAL PRISON CONGRESS.

INTRODUCTION.

The Seventh International Prison Congress held its sessions in the city of Budapest September 3–9, 1905. The invitation to the congress was extended by the Royal Hungarian Government. His Majesty the King Francis Joseph graciously became the patron of the congress. The active president was Jules Rickl de Bellye, ministerial counselor to the ministry of justice. The attendance was large, representatives being present from twenty-nine nations. The hospitality of the Hungarian Government and the citizens was unbounded. The discussions were earnest and animated. The congress was one of the best that has been held since its formation, thirty-five years before. While some of the subjects considered had been on the programme of previous congresses, such as the question of the relation of alcoholism to crime and the problem of prison labor, other questions, such as whether indemnity shall be paid to prisoners who are the victims of accidents in penal labor, and the question of the treatment of tuberculosis, illustrated the new aspect and widening range of penological discussion.

AMERICAN DELEGATES.

At a meeting of the National Prison Association of the United States held in Quincy, Ill., October, 1904, the following persons were elected to represent the association: Rev. J. L. Milligan, LL. D., Allegheny, Pa.; Chas. A. Henderson, LL. D., Chicago, Ill.; Hon. Samuel J. Barrows, New York, N. Y.; Maj. R. W. McClaughry, Fort Leavenworth, Kans.; Hon. Simeon Baldwin, New Haven, Conn.; Rev. Wm. J. Batt, Concord, Mass.; Col. Joseph F. Scott, Elmira, N. Y.

Of these gentlemen Messrs. Milligan, McClaughry, and Scott were unable to be present.

Mrs. E. E. Williamson, of Elizabeth, representing the State of New Jersey; Dr. S. A. Knopf, of New York, N. Y.; Mrs. Isabel C. Barrows, of New York, N. Y., representing the Prison Association of New York, were also present as official delegates.

INTERNATIONAL PRISON COMMISSION.

The International Prison Commission is the executive committee of the International Prison Congress. It is compossed of an official representative from each of the nations that have joined the congress. Upon it rests the responsibility of framing in advance the programme of the congress and securing reports from experts in different countries upon the questions to be discussed. These, together with other monographs showing the progress of penological ideas and administration in different countries, are published in a bulletin issued from time to time by the commission.

In the five years intervening between the sessions of the Sixth International Prison Congress at Brussels in 1900 and the seventh session at Budapest in 1905, meetings were held at Berne in the summer of 1902 to arrange the programme for the Seventh Congress and also at Budapest in 1904. The proceedings of these meetings are published in the bulletins of the commission. As they are mainly of a business nature and their results are seen in the general congress it is not necessary to repeat them here. The commission was composed as follows, the names being arranged in the alphabetical order of their countries:

Baden, Grand Duchy, represented by Doctor Reichardt, counselor to the ministry of justice at Carlsruhe.

Bavaria, August Baumgärtl, counselor to the ministry of justice, Munich.

Belgium, Charles Didion, chief of division to the ministry of justice and director of prisons, Brussels.

Bulgaria, Doctor Minkoff, state attorney of the supreme court of Sofia.

Cuba, Dr. Francisco T. Falco, consul of the Republic of Cuba in Italy, Genoa.

Denmark, Dr. Carl Goos, formerly minister of justice, professor of penal law at Copenhagen.

France, Mr. Periclès Grimanelli, director-general of prison administration, Paris.

Great Britain, Sir Evelyn Ruggles-Brise, K. C. B., president of the prison commission, home office, Whitehall, London.

Greece, Alexander Skousès, minister of foreign affairs and member of the Greek Parliament, Athens, and Typaldo-Bassia, doctor of law, advocate at the supreme court, and professor in the university of Athens.

Hungary, Jules Rickl de Bellye, counselor to the ministry of justice and president of the International Prison Commission, Budapest.

Italy, Commander Alexander Doria, director-general of prisons, Rome.

Netherlands, Dr. Simon Van der Aa, director-general of prisons, The Hague.

Norway, Fredrik Woxen, chief of the administration of prisons, Christiania.

Russia, A. de Stremoukhoff, director-general of prisons, St. Petersburg.

Switzerland, Dr. Louis Guillaume, chief of the federal bureau of statistics, former director of the penitentiary at Neuchatel, and secretary of the International Prison Commission, Berne.

United States, Samuel J. Barrows, corresponding secretary Prison Association of New York, vice-president of the National Prison Association.

INVITATION FROM THE UNITED STATES.

At a meeting of the International Prison Commission held at the Parliament House at Budapest, September 4, 1906, the American commissioner, Hon. S. J. Barrows, presented a communication from the President of the United States extending an invitation from the Congress of the United States to hold the Eighth International Prison Congress in the United States.

The president of the commission, Mr. Jules Rickl de Bellye, expressed his gratification at receiving this communication from the President of the United States. He was sure that it would be unanimously ratified, not only by the international commission, but by the entire congress.

The communication from the President and the reply of the International Prison Congress accepting the same were communicated to the Congress of the United States by the President January 22, 1906, and are printed at the close of this report.

OPENING OF THE CONGRESS.

At 11 o'clock Sunday morning, September 3, the congress was formally opened in the Hall of Honor of the Palace of the Academy of Sciences, Budapest, Hungary. His Imperial and Royal Highness, the Archduke Joseph, honored the occasion with his presence, representing the royal family. His Excellency M. B. Lányi, minister of justice, of Hungary, presided. On the platform were the members of the International Prison Commission, foreign ambassadors, and other distinguished persons.

ADDRESS OF HIS EXCELLENCY, THE MINISTER OF JUSTICE.

His Excellency, the minister of justice, Mr. Lányi, speaking in French, in which language all of the opening addresses were delivered, said:

IMPERIAL AND ROYAL HIGHNESS, LADIES, AND GENTLEMEN: This congress is dedicated to the service of those humanitarian ideas which unite all the nations belonging to the great community of civilized peoples. The first and at the same time the most sacred duty of every State and of every society is to render possible the pacific cooperation of its citizens in the interest of the perfection of human life. The most important way to accomplish this duty is through the exterior bulwark of the judicial system, the penal law.

But punishment is a double-edged weapon. Every blow dealt by the State upon enemies of internal peace leaves wounds upon the body of society. Recognizing this, the State is under an obligation to mitigate with humanitarian sentiments the harsh coercive measures of the criminal law.

The most marked tendency of the recent development of criminal law is seen in the bond established on one side between the criminal law, which prescribes the sentence and the conditions regulating its execution, and on the other hand between the preventive measures which tend to the suppression of the social causes of criminality. This congress illustrates clearly that tendency, since in its sections abundant space has been reserved for its consideration.

The relation between criminal law and questions of prison administration has been illustrated in the long history of our country. Studies of codification of the penal law made about 1840 found their point of departure in movements for prison reform. The battle of ideas which took place in the year 1843 on a high level and with a broad perspective concerning proposed changes in the criminal law

summoned to the conflict the most eminent men in our nation. We find in the ranks Francis Deák, Count Stephen Széchenyi, Baron Joseph Eötvös, Mr. Ladislas Szalay, and other excellent statesmen of that great age, whose creative and critical spirit gave birth to projects which have received the approbation of the best judicial authorities of Europe. With just pride we may designate Hungary as the first State in Europe which required that its prison service should be regulated by a special code, according to the principle of the separate system generally accepted at that time (1843).

The interest in penological questions has not diminished in the time which has since elapsed, but professional jurists have been charged with the rôle which statesmen formerly played. Since 1867 the Government has recognized its first duty to concern itself with prison reform. And since our penal code inaugurated a progressive system we have not ceased to concern ourselves actively with this principle along with the development of institutions for correction.

The Government has, besides, in the current year opened the first house of detention designed to receive only young offenders. This measure means a new step in advance in the important battle against juvenile criminality.

The honor which you have done us, ladies and gentlemen, in meeting this time on the soil of our country will give to us new strength. We shall derive new light from your deliberations that so we may keep for the future of penology the dignity of its past.

And now, since I have the pleasure of expressing to you the sincere thanks of the Hungarian Government for your participation in this congress, I address myself again to His Imperial and Royal Highness. The deliberations upon the proposed criminal law of 1843 were presided over by the Palatine Stephen, grandfather of happy memory of His Highness. Your Highness is then not only the representative of His Imperial and Royal Apostolic Majesty, but besides, by virtue of family traditions, the competent collaborator of this congress. In accordance with that historic tradition accept my respectful prayer that the Seventh International Prison Congress may be opened by your Imperial and Royal Highness.

ADDRESS OF HIS IMPERIAL AND ROYAL HIGHNESS THE ARCHDUKE JOSEPH.

LADIES AND GENTLEMEN: When His Apostolic and Imperial and Royal Majesty graciously allowed the Seventh International Prison Congress to be held under his auspices, he charged me to greet you in his name. With pleasure I have accepted the mission which honors me in giving me occasion to express my interest and my sympathy for your scientific work and the noble humanitarian end which you are pursuing.

For more than a century penal justice has recognized the high value of the idea of prevention and correction in the battle against criminality; it has also recognized that justice, in its work of social defense, can completely obtain its end only by these means.

Every person who has followed with attention the successive prison congresses must recognize that all these assemblies, since the congress of London in 1872, have consistently supported the idea of prevention

and correction as the most efficacious means at the service of penal justice. It is perhaps not inappropriate to recall to your mind that it was one of the ancestors of our royal protectors, Leopold II, who, as Grand Duke of Tuscany, first put in practice that principle in the penal code which he promulgated, and in Hungary it has been under the glorious reign of His Apostolic, Imperial, and Royal Majesty, protector of this congress, that penological questions have undergone a transformation conformable to this principle of correction. The country which you have chosen as the seat of your deliberations is worthy of the ideal inspiring your activity. Believe that here everyone, from the supreme guardian of the laws to the most modest of his workmen, will follow with sustained interest the course of your work. You have proposed to yourself a noble and sublime task in treating questions the solution of which must lead to a diminution of criminality and must be consequently a pledge of a civic development of society.

The members of this international congress, gathered from all parts of the civilized world, are particularly called to this work not only by reason of their mutual efforts which have established in some degree the unity of scientific tendencies in the entire globe, but because you have among you the most eminent representatives of your science. These international relations, growing from day to day more numerous, have given to criminality a new cosmopolitan tendency as they give more and more an international character to the enemies of legal order. It is an axiom that criminality follows civilization step by step, from which it naturally follows that civilized nations have the duty of following criminality step by step in the war which they are waging against it.

You are, then, champions of civilization, and that charity, the controlling idea in modern culture, which you have chosen as a weapon in the combat, is at the same time its end and purpose.

I hope that well-merited success may crown your great and arduous labors, and in the name of His Apostolic Imperial and Royal Majesty, I declare open the Seventh International Prison Congress.

The discourse of His Royal Highness was received with warm applause.

ADDRESS OF HIS EXCELLENCY ALEXANDER SKOUSÈS, MINISTER OF FOREIGN AFFAIRS OF GREECE.

Addressing His Royal Highness, His Excellency the Minister of Justice, and the ladies and gentlemen, Mr. Skousès said:

"I was in prison and you visited me."

These words of our Lord have become incarnated, and after many endeavors, and efforts due to private initiative, the Seventh International Prison Congress meets here to discuss and study the most efficacious means of ameliorating the lot of the prisoner, while at the same time having in view the battle against crime.

For it must not be believed—although there are persons who see in prison societies and congresses only the purely philanthropic side—that we occupy ourselves only in seeking to render the lives of prisoners less monotonous and less hard, or even agreeable, as some say.

The words of our Lord incited the first philanthropists to devote themselves to prisoners. These, after being adjudged by society, were driven into jails and prisons, and when the heavy door was closed behind them, they rarely saw a human face. At that time a different idea existed of prisons and penalties from that which exists to-day. The object of the penalty was that society might revenge itself on the criminal. He who built a prison only aimed to raise thicker and higher walls, to render escape more difficult. He who pronounced penalties merely aimed to render the life of the prisoner so hard, the punishment so terrible, that he who had been through it once would have no desire to undergo it again and that he who might hear of or witness these tortures might be forever after intimidated. It was thought that society was thus protected against elements of disorder and against criminals who transgressed the laws. The results obtained by this manner of repressing crime did not cause it to disappear, or even to diminish; recourse to other means was necessary. The development of morals, which, thanks to the progress of civilization, has served to make the relations between men more pacific, has also contributed to soften the means of coercion and to render more humane the manner of treating prisoners.

To-day, while affirming and reestablishing by penalty the power of the law which has been violated by the criminal, our task is, first, to keep men from falling into crime; second, to take care that the man who through the fault of education or through the fault of character, or by reason of bad example, or other motives, has fallen into crime, does not become an habitual criminal. No; it is necessary to reform him; to awaken in him the sentiment that every man should possess by nature or by Christian training—the sentiment of pride—which more than any other thing may prevent him from becoming a pariah of society. This is the work which devolves upon society to-day, and it is under the influence of these ideas that the different countries represented in these assemblies of specialists and philanthropists seek to obtain light and instruction from those who have acquired experience. In their reports they seek to go to original sources of information; to reach most easily the end desired by all—the prevention of crime and the reformation of offenders.

It is under such auspices that our congress, which assembles to-day upon the hospitable soil of this chivalrous country, where every idea of liberty and civilization has always awakened a sympathetic echo, is to continue the work of its predecessors. But if we assemble here to-day in a festival character, ladies and gentlemen, we must not think that the preparation for our congress is a preparation for a festival which is automatically reproduced every five years in some one of the capitals of the civilized world. We know that before receiving these guests there must be work. In order that everything may be conducted to a good issue the activity, the zeal, and the devotion of many persons have been necessary—organizers, writers of papers, reviewers of the same, and, above all, those whom I might call the mainsprings of the congress—the president of the International Prison Commission, who directs with so much ability the prison administration of Hungary, and the secretary-general, who for many years has been the soul of the Commission and the Congress.

Gathered in this beautiful capital, we must not think that it is to the natural charms of Budapest, which attract all visitors, that we owe the meeting of the Prison Congress. Ever since the early congresses Hungary, by its representatives, Csemegi and Emile Tauffer, whose memory remains still vivid among us, has taken a marked and active part in these congresses. She has supported the labors of the International Prison Commission with a constancy and zeal which entitled her to our gratitude. Mr. Sigmund de Laszlo was for many years its devoted treasurer.

In the domain of penology Hungary has kept abreast of the progress which has been made since the beginning of the Congress. The establishment of correctional institutions for juvenile delinquents at Aszod and at Kassa, which we shall have the pleasure of seeing, will show us what the Hungarian Government has done for the improvement of her reformatories.

I am persuaded that the Seventh International Prison Congress will be a worthy successor of those which have preceded it, and that it will show in this way its gratitude toward the country which extends to us this gracious hospitality, and whose sovereign, as beloved as he is universally respected, has consented to take the congress under his high protection, personally represented by His Imperial and Royal Highness the Archduke Joseph, while the Royal Government is represented among us by his excellency the minister of justice.

I know I am faithfully interpreting your sentiments, ladies and gentlemen, in asking you to join with me in raising the cry of:

Éljen Ő Felsége a magyar király!
Éljen József főherczeg Ő Fensége!
Éljenek a rokonszenves magyarok!

Ladies and gentlemen, I propose that we address a telegram of greeting and of thanks to His Majesty the Emperor and King, who has consented to take the congress under his high patronage.

Finally, since the honor has fallen upon me to temporarily preside over this assembly, I can not better bring this flattering responsibility to a close than in proposing that we beg his excellency, the minister of justice, to accept the honorary presidency of the congress and to intrust the active presidency to Monsieur Rickl de Bellye, the president of the International Prison Commission.

The motions of His Excellency Mr. Skousès were unanimously adopted.

ADDRESS OF MR. RICKL DE BELLYE, ACTING PRESIDENT OF THE CONGRESS.

Mr. President, Imperial and Royal Highness, Ladies and Gentlemen: I fulfill a pleasant duty in thanking my colleagues of the congress for their kindness, so extremely flattering to me, in charging me with the duties of presiding officer. I experience, it is true, a sentiment of fear when I think of my illustrious predecessors who have presided over the congress. If I yield to the wish expressed in this choice it is because I may derive strength for the successful accomplishment of the important duty devolved upon me, not in my enthusiasm for the great cause which we represent, but in the

superior knowledge and support of my colleagues, and in the hope I cherish that during the course of discussion they will show tolerance with reference to the expression of divergent opinions.

Permit me to add some observations and memories to the expression of my thanks.

Along with the divine spark—the inclination toward good—there is in man the germ of evil, which tends to injure his neighbor. Under given circumstances this germ develops rapidly and makes many occasional offenders. It infects the good sentiments in a lasting manner and of degenerates makes professional criminals. The entire human world is full of the light of the soul, but also of the shadows of crime spread everywhere like a suffocating smoke. We follow with attention the slightest event which may have an influence upon human and social life, and make it the object of our thought. It is rational then that crime, which profoundly and permanantly affects humanity and social life, should excite not only the interest of more extended circles but demands that we direct our efforts toward the proper means of preventing it, while we resolve in the most practical manner the grave problems which relate to its punishment.

In the most ancient times the first sentiment of man with reference to crime was to employ reprisal, and in the lapse of time it found expression in the application of various penalties invented with savage cruelty. At length these frightful tortures, which had intimidation for their end, were softened, and aside from the penalty of death applied as a punishment to the gravest crimes, imprisonment—the deprivation of liberty—remained the most frequent penalty, though we do not find these penalties appearing as independent sentences in the laws until the seventeenth and eighteenth centuries. The philanthropists and philosophers of the second half of the eighteenth century introduced a new era by the elaborate development of a more humane penal system, based upon the deprivation of liberty. We are not ignorant, however, of the fact, and the older ones among us have seen it illustrated, that the sentence of a prisoner to the deprivation of liberty was very often unreasonable and barbaric, both from the standpoint of the penalty and its application.

In the first half of the nineteenth century, a large number of the ideas of the preceding century which were those of the immortal English philanthropist, the master of us all, acquired the force of law and the prison question, until then only an affair of imprisonment, won a great number of ardent advocates, whose activities resulted in making it at the end of the century a vast science. It has not only for its object the manner of applying penalties involving imprisonment; besides the infliction of punishment it includes also the subject of criminal law, and the adoption of measures which are essentially preventive. In this aspect it has become the object of scientific research and is discused in our congress.

The scientific contests of the last ten years have furnished valuable data, but the battle of different schools has not yet ended in a decisive manner. It is still inevitably necessary to make thorough investigations relating to the factors of criminology, relating to criminals and their character, social and moral maladies, the economic difficulties which engender crime; the individual treatment of the

prisoner, so extolled to-day in the application of sentences; and concerning preventive measures of capital importance, such as the education of the people, the propagation of religious and moral ideas, the establishment of labor funds, of workhouses and other asylums; the application of effective measures for aiding discharged prisoners; the battle with mendicancy, with vagrancy and intemperance; the education and correction of juvenile offenders, and neglected children, those in danger of falling into vice.

Such is the vast field of our arduous labors. The boundaries are on one side the care of childhood and conditional probation, on the other side perpetual imprisonment and the death penalty.

In the interest of social order we must do all that is humanly possible to prevent criminality or at least to restrain it, to apply the penalty effectively to those to whom it may be efficacious, leaving aside of course the death penalty or the sentence to perpetual imprisonment pronounced with a view to protect society; we must see that the penalty of imprisonment is applied with vigor but with humanity, so that the prisoner may enter the world again morally amended, sound of body and mind and not incapable of work, or afflicted with a contagious disease.

None of these ideas tend to irrational cruelty or to excessive indulgence, and the reproach of false humanity should not deflect us from our wise moderation or disarm our zeal.

The sword of Justice in one hand, the sacred emblem of Charity in the other, we pass through the labyrinth of crime to save those who may be saved and to punish conformably to the laws of reason those who should be punished. I salute again my honored colleagues, gathered at this congress, to promote this sublime end, and I hope that the benediction of the Almighty will enlighten our spirits and our hearts for the success of our noble efforts. So may it be.

OFFICERS OF THE CONGRESS.

Resuming his remarks, the president, Mr. Rickl de Bellye, said:

I have the pleasure of announcing to you that his excellency the minister of justice has kindly accepted the honorary presidency that you have just offered to him. In your name I present to him the expression of our gratitude for this high mark of good will and interest in the humanitarian work which we are trying to follow.

I can not forget the worthy tradition established by preceding congresses, and I propose to nominate as honorary presidents the eminent men who have presided over them with so much distinction: Mr. Beltrani-Scalia, His Excellency Galkine-Wraskoy, and Mr. Duflos, presidents, respectively, of the congresses of Rome, St. Petersburg, and Paris. I invite you also to extend the same mark of gratitude to His Excellency Mr. A. Skousès, who has consented to-day to be the voice of the International Commission, and who since the congress of Stockholm has not ceased to give his valuable cooperation to the cause of prison reform.

You have also to elect vice-presidents, and I propose to nominate for that office the official delegates of the United States of America, of Austria, Baden, Belgium, Bulgaria, Cuba, France, Great Britain,

and Ireland, Japan, Italy, Mexico, Norway, Netherlands, Roumania, Russia, Saxony, Servia, and Sweden, namely: Messrs. Barrows, Holzknecht de Hort, Reichardt, Didion, Minkoff, Falco, Grimanelli, Sir Ruggles-Brise, de Ballogh, Ogawa, Doria, De la Barra, Woxen, Simon van der Aa, Herovanu, de Stremoukhoff, Vitzthum de Eichstädt, Marcovitch, Almquist et Cossy.

I propose to nominate as secretary-general Doctor Guillaume, who has fulfilled with a devotion known to you all the laborious functions of preceding congresses, and I will designate as assistant secretaries-general Messrs. Doctor Vambéry, Dr. Typaldo-Bassia, Dr. Eugène Borel.

These nominations were unanimously accepted, and the session was adjourned.

PROGRAMME OF QUESTIONS.

FIRST SECTION.—PENAL LEGISLATION.

Question 1.—(*a*) For what offenses may fines be imposed as supplementary penalties? (*b*) What rules should govern, first, an execution against the property of those sentenced to pay fines and, secondly, the enforcement of alternative imprisonment?

Question 2.—What are the constituent elements in the offense of swindling?

Question 3.—Should the receiving of stolen goods be considered as a distinct offense or as an act of complicity?

Question 4.—Have the results of the jury system been such as to call for certain reforms?

SECOND SECTION.—PRISON ADMINISTRATION.

Question 1.—What are the best means of securing the moral classification of prisoners, and what are the different consequences which should attach to such classification?

Question 2.—Should accused persons awaiting trial be required to work if they have previously been condemned to imprisonment? If work is not made obligatory for such accused persons, should not the reduction from their sentences of the time spent in prison while awaiting trial be conditional upon their voluntary acceptance of work during such preliminary imprisonment?

Question 3.—Upon what principles, in what cases, and on what basis should indemnities be allowed to prisoners, or to their families, in consequence of accidents arising in penal labor? What special provision in this respect should be admitted with reference to young offenders, whether in colonies or in reform schools, public or private?

Question 4.—Is it necessary to create establishments of detention for persons of limited resposibility and for inveterate drunkards? If so, on what principles should such establishments be organized?

Question 5.—Upon what principles should we authorize and in what manner organize agricultural or other public labor in the open air for prisoners?

THIRD SECTION.—PREVENTIVE MEANS.

Question 1.—What in different countries is the recognized influence of alcoholism upon crime? What special means may be adopted to combat alcoholism with reference to prisoners in general?

Question 2.—What are the best means of combating and treating tuberculosis, and of avoiding its propagation in all kinds of penal establishments?

Question 3.—What are the proper limits as to the intervention of the State with reference to guardian or aid societies?

FOURTH SECTION.—CHILDREN AND MINORS.

Question 1.—Should the State take measures to protect the children of prisoners, and what measures would be most effective?

Question 2.—Is there need for establishing institutions of observation for young delinquents, vicious children, or those morally neglected; if so, how should they be organized?

Question 3.—Under the laws of certain States imprisonment is provided for a certain class of juvenile delinquents. What system should be applied to them? Should such condemned minors be confined under the system of cellular imprisonment for the entire duration of their sentence, or for but a part of it?

Question 4.—Outside of the ordinary means of education, what are the most effective measures to insure the preservation of children morally neglected, and the reform of vicious children who have not committed any punishable offense?

FIRST SECTION.

PENAL LEGISLATION.

President: Félix Voisin, justice of the supreme court of France (court of cassation).

Vice-presidents: Messrs. A. Pierantoni, Harburger, Saint-Aubin, Feuilloley, Mr. Witte, Mlle. Lydia Poët, Messrs. A. Schober, Gordon, Roux, Cuche, T. Bassia.

Secretary: Dr. Louis Gruber.

Associate secretaries: Messrs. Dr. A. Lengyel, Dr. F. de Bernolák et Chaumié.

THE IMPOSITION OF FINES.

Question 1.—(*a*) For what offenses may fines be imposed as supplementary penalties?

(*b*) What rules should govern, first, an execution against the property of those sentenced to pay fines, and, secondly, the enforcement of alternative imprisonment?

Ten reports were presented upon this question by Messrs. Brück-Faber, Dubois, Demogue, van Duyl, Le Boucq, du Mouceau, Roux, Spalding, Urbye, and Vambéry.

Mr. Tarnai was the reviewer.

The writers of monographs adhered for the most part to the division of the subject adopted by the commission. Messrs. Urbye and Brück-Faber wished to completely suppress the fine, while Mr. Spalding would admit it only in the case of lighter offenses, committed ordinarily under the influence of liquor. The contrary extreme was represented by Mr. Roux, who proposed to apply the fine as an ordinary penalty in the case of misdemeanors and minor contraventions of law without exception. Mr. Andreas Urbye, state attorney and professor of criminal law at the University of Christiania, admits that there are offenses for which one might apply a fine with a repressive effect.

Under the system in vogue, a fine which can not be collected is converted into imprisonment, the consequence being, according to the view of Mr. Urbye, that the condemned person who is indigent finds himself under two sentences of imprisonment, the principal sentence and the supplementary sentence of a fine converted into an additional period of detention. If, on the other hand, the irrecoverable fine is not converted into imprisonment, the fine would

cease to be an effective penalty. For these reasons Mr. Urbye recommends the principle of the Norwegian penal code, which tends decidedly to make the fine mean a deprivation of property and not to conceal under this penalty the penalty of imprisonment. In fixing the penalty it considers the pecuniary conditions of the condemned and his reputed ability to pay. It is based upon his income and his expenditures. Thus in fixing the amount of the fine the judge has in view the possibility of recovery. The new Norwegian law is not content with regulating the application of the penalty, but it also pays attention to the method by which it may be recovered. It endeavors to facilitate the payment of the fine by the convicted person. The judge may authorize the prisoner to pay the fine by installments or collect it by work rendered to the State or municipality. If the fine is not paid in these ways, civil execution may take place. Imprisonment as a substitute for the fine is a last resort. The length of the penalty, depending upon the discretion of the judge, should in the view of the law be of sufficient duration to induce the prisoner to pay the fine according to his ability. Thus if two students, one rich and the other poor, should commit together a grave offense against the public peace and be condemned, the first to a fine of 500 crowns and the second to a fine of 50 crowns, the subsidiary imprisonment might be fixed for each of them at twenty-one days of ordinary detention. Take another example. A tramp arrested for disorderly conduct or breach of the peace is condemned to 5 crowns' fine. The subsidiary penalty would be perhaps six days' imprisonment, commutable into two days' confinement on bread and water. Thus the penalty of the fine might be imposed without regard to the fact that the offender had or had not the intention of realizing a pecuniary profit by his offense.

Mr. Brück-Faber is director of the penal establishments of Luxembourg. He maintained that the chief end of the penalty—public reparation—is necessarily secured by the principal penalty and that any supplementary penalty should not augment that of imprisonment. Every infraction of the penal law includes two elements—a moral evil and a material evil. The material evil in the offense exists in the damage caused to the victim, which at the same time, as in the case of extortion, theft, and embezzlement, may result in a profit to the offender. The public conscience revolts at the idea that an offender may peaceably enjoy the fruit of his crime. The most practical means of correcting this is the confiscation of the property which is the object of this wrongdoing. It should be pronounced in favor of the party suffering from the offense.

Mr. Spalding in his report showed that a fine as it is applied does not attain the end intended by the lawmakers. The object of its

perpetuation by the modern lawmaker has been to provide some means less severe than that of imprisonment and to leave the choice to the convicted person; but as the greater number of convicted persons are without means, and as those who can not pay are put in prison, the assumed choice in the case of indigent persons is a fiction. If those who are sentenced to a fine were all under the same category and in the same condition, there would be less incongruity in the administration of the system, but the offienses for which penalties are imposed are of very different kinds. Those who violate the law clandestinely for purposes of gain, as proprietors of gambling houses or manufacturers or illigal venders of alcoholic drinks, take account of the fine as an item of expense or loss. In such cases of deliberate violation of the law there seems to be no reason for replacing imprisonment by the payment of a fine.

In another category of offenses are violations of the law such as exceeding the speed limit with automobiles, and other offenses in which the violation of the law may be attributed rather to love of pleasure than to a desire for gain. These are often due to negligence and want of reflection. The fine appears to be justified in these cases as a lighter form of penalty. It is also generally applied in cases of drunkenness.

The objection to the fine system is that it tends to make the judgment purely mechanical. The court sentences the offender to a fine without learning beforehand whether the person is in a condition to pay; the law is executed in a perfunctory way. The fine appears to be such a light penalty that the court does not seem to recognize the necessity of thorough investigation before pronouncing the sentence. The result of this mechanical method is that the same persons are fined over and over again after they have become habitual offenders.

Mr. Spalding pointed out other weaknesses of the fine system, notably, that it establishes a difference between the rich and the poor. The former easily pay the fine while the poor man is committed to prison because he has not the means to pay it.

Again, the weight of the penalty varies greatly and depends upon the circumstances of the delinquent. One has much money and does not mind the loss of some dollars; in other cases the fine amounts to a veritable hardship for the prisoner and is often harder for his family to bear than for himself. The money to pay it comes from widows and mothers. In some cases the fine is paid because they fear the consequences of a refusal; in other cases it is paid because the prisoner is their support and they must choose between the payment of the fine and the loss which they would suffer by his imprisonment.

Again, the fine is unequal from another point of view. Let us suppose that one delinquent is earning $10 a week and another $30. They undergo an imprisonment of the same duration, yet the pecuniary penalty applied to the first, though nominally of the same amount, is threefold that of the second. This simple fact shows the absurdity of a system which consists in fixing a duration of imprisonment as the equivalent of a fine.

Mr. Spalding proposed, in case of a first and purely accidental offense, to administer a reprimand without penal action. In case of repetition the persons should be put under probation, which can be applied in many cases where a fine is pronounced. The insolvent prisoner may be placed under the custody or supervision of a probation officer to whom he may pay the fine in installments. The laws of Massachusetts and of New York provide for such forms of payment.

A directly opposite view was presented by Mr. Roux, professor of the faculty of law at the University of Dijon. Accepting the idea that imprisonment of short duration should be avoided as much as possible, he recommends the fine as an equivalent. Mr. Roux points out that in the ancient system of law a fine was imposed for every offense, while in modern times imprisonment is made the basis of the penal system. He would only permit the addition of imprisonment to the fine in the gravest cases. Responding to the first part of the question, he concludes, therefore, that in a misdemeanor, or violation of police ordinance, except for habitual offenders and recidivists, the fine should be the normal penalty. In certain cases the penalty of imprisonment may be pronounced.

Mr. Tarnai, the reviewer, arranged in another group those writers of reports who accept the prevailing idea of the fine, neither rejecting the principle nor attributing to it an exclusive preponderance in certain categories of offenses. Of these reporters, Mr. D. Z. van Duyl, judge and member of the administrative commission of prisons of Leeuwarden, Holland, maintained that the fine, by reason of its numerous excellent qualities, must be ranked among the most effective means of punishment. It is of great value from the economic point of view as well as from its divisibility. The weight of the judgment falls less upon the entire family than any other penalty. It is less necessary to revise the fine as a penalty than it is to change the manner in which it is administered. One of the great advantages of the fine is that it may replace the sentence to short imprisonment. The question was discussed at the congress of London. It ranks among the most important questions placed on the programme; and this discussion takes place at a favorable time, when the system of short sentences to imprisonment is now vigorously attacked. While Mr. van Duyl believes that imprisonment of long

duration is the only course to take with reference to certain classes of criminals, he believes that short sentences are a great evil, difficult to avoid perhaps, but which ought to be prevented as much as possible. He would not replace them by probation or conditional liberation alone; he would rather replace them by a still larger application of punishment by fine. His conclusions are that the fine should, as an accessory penalty, take place beside the penalty of imprisonment and be applied, first to offenses committed with the hope of gain, or from cupidity; second, to those which are punished by a maximum of five years' imprisonment; and for persons the character of whose offense, when viewed in relation to the fortune of the convicted person, renders desirable such an accumulation of penalties; third, the amount of the fine should range from 1 franc to 50,000; fourth, the judge should have the liberty of applying the penalty without being compelled to do so. In fixing the amount of the fine he should take into consideration the financial situation of the convicted person.

Prof. R. Demogue, of the faculty of law of the University of Lille, strongly opposing the application of short sentences of imprisonment, believes that the judge should only choose between an imprisonment of moderate duration and a fine. He believes that the fine is suitable for cases in which it is desired to avoid a sentence carrying a stigma, while at the same time exercising a repressive influence. One of these cases is condemnation with suspension of sentence. An unconditional fine should be joined to probation. In the case of offenses committed under negligence or imprudence, a fine, even though severe, will be without effect upon the rich delinquent, but in adding imprisonment, even of short duration, we could extend the efficacy of this repression.

But it is particularly for offenses committed through cupidity that Mr. Demogue regards the fine as eminently suitable. In such cases he thinks it absolutely indispensable.

Mr. Du Mouceau, procureur de la République à Beaume (Côte-d'Or), set forth the anomalies and the contradictions of the fine system as they are revealed in the letter and application of the French code. Our codes are based largely on the Roman code with its relation to civil reparation, while it reflects in its composition the barbarous laws. In many cases the fine has a purely civil character; in other cases it is mixed with criminal elements. The fine should be, according to his opinion, only a penalty to correct. That is its true origin. In order to be efficacious the fine should be imposed in proportion to the fortune of the delinquent—that is to say, made equally onerous to each one. As ordinarily administered, the fine is unequal and arbitrary. Bentham in his Theory of Punishments, and

Rossi in his Treatise on Penal Law, Frank in his Philosophy of Penal Law, incline to proportioning the fine to the riches or poverty of the offender. "In our own day, eminent professors, such as Saleilles, Beauregard, and the great Italian criminologist Garofalo, admitting that the system of the indemnification of the victim of the crime which I proposed in 1900, was acceptable, proclaimed, as a necessary consequence, the principle that the fine should be proportioned to the wealth of the offender, which has just been recognized in the penal code of Norway, January 1, 1905. The system is easily applicable in countries in which an income tax exists. The principle is recognized at least in articles 192 and 193 of the Code Napoleon, in which those who violate article 1654 may be condemned to a fine in proportion to their fortune."

"Only when the offense is one of great gravity, or where the perversity of the person renders deprivation of liberty necessary, should imprisonment be pronounced. It is expensive to the state; it exposes the prisoner to dangerous associations, deprives him of the opportunity to repair the damage he has done and to provide for the needs of his family."

Mr. Du Mouceau concludes, that whether an accessory or a principal penalty, a fine should, first, always have a purely penal character; second, being a penalty, it should have an individual character and those only should be subject to it who would be punished by it; third, as the fine is imposed for repression and correction it should, in order to be effective, be imposed with just so much more stringency when the delinquent shall have shown a great desire for gain; fourth, to be just it should be proportioned to the fortune of the delinquent; fifth, more moral in its effect than the prison it should be sufficiently high to replace it as often as possible.

One of the most thorough and elaborate of the papers on this subject was that of Dr. Rueztem Vambéry, professor agrégé of the university, and judge attached to the department of justice at Budapest. Mr. Vambéry's report is valuable as presenting effectively in a single paper the considerations for and against the fine system advanced by penologists of all countries and of different schools. The weight of the evidence he presents is in favor of the application of the fine either as an accessory or as an independent penalty. His argument is supported by abundant references to penal codes and to modern authorities, with the result of showing us a great variety of practice and a total want of system in the application of fines in modern criminal laws. Professor Vambéry suggests that the court inflict a fine as an accessory penalty for every criminal act to which it imposes a penalty of deprivation of liberty not exceeding a duration of three years, if the motives of the criminal act are personal

gain or avarice; and in cases where the act may be attributed to other motives, but the court recognizes that the offender's state of mind is of a nature to be powerfully impressed by the application of a pecuniary penalty. The fine as an accessory penalty should be applied conformably to the conditions enumerated and without regard to the duration of a sentence to temporary confinement in cases where the amount of the fine does not exceed the sum of the income for one year of the capital of the condemned person.

Reviewing in an exact and able manner these various reports, Mr. Tarnai declares himself an advocate of the principle of a fine as a useful means of establishing a more just proportion between the offense and the sentence. The development of penal legislation shows us that the fine as a supplementary penalty has made recently considerable conquest. Since the Prussian penal code of 1881 and the German penal code commenced to make a larger application of this form of penalty, but little used until then, and only for offenses of slight importance, the code makers of other countries have followed this example. Among them we find the Hungarian and the Italian codes, which have considerably enlarged the application of the fine. While the German code has applied it in 13 cases, it is applicable as a supplementary penalty to 8 crimes, 57 misdemeanors (délits), and 49 minor offenses (contravention) in the Hungarian code, and to 110 cases in the Italian code. The commission has asked the question for which offenses the fine may be imposed as a supplementary penalty. To answer this question literally, Mr. Tarnai says, would require the enumeration of all the offenses which may be affected by this penalty, a task almost impossible.

Of those who favor the application of the fine there is a pretty general agreement that it should be imposed for offenses committed against property for the object of gain. It accords well with public opinion, because it contains an element of retribution and because the majority of men are supposed to be very susceptible to a diminution of their fortune. Many of the writers justly remark that the series of acts which may have gain for their motive is inexhaustible. Yet many codes have failed to apply it in such cases. Mr. Tarnai would not go beyond these limits, as a general rule, in applying the fine.

Although favoring the giving of large discretion to the judge in the imposition of the fine, Mr. Tarnai assumes that the judge would not be sufficiently acquainted with the prisoner to know whether he would be more or less susceptible to the application of the fine. It is for the law to determine how the fine may be applied so as to touch the offender through his property.

While Mr. Demogue insists upon the application of the fine to crimes of passion, Mr. Tarnai doubts if passion can be combatted with pecuniary penalties.

Concerning the second part of the question, as to executions against the property of those sentenced to pay fines and the enforcement of alternative imprisonment, much attention was given by the different reporters to suggesting methods for the limitation and application of the fine. For our purpose the analysis of the reviewer, Mr. Tarnai, will be sufficient. He concludes that we should treat the fine as other forms of penalty. It should have for its aim to strike the person without destroying him and without imperiling his conditions of existence. The ruthless system of execution in vogue in civil matters should not figure among our means and methods, but it is difficult to fix rules. The classification of convicted persons into good and bad payers is not sufficiently exact. To pay a fine it is not only sufficient to have property—it is necessary to have ready money. Let us suppose the case of a small farmer in a period of a short crop. A convicted offender under such circumstances might be insolvent at a given moment; but we should not, however, apply to him measures such as some of the reporters propose for the recovery of fines; we should not require that his property should be seized to satisfy the fine. We are obliged, then, to make distinctions according to circumstances, and as these can not all be foreseen in the law, we must depend upon the judge.

The possibility of recovering a fine stands in intimate relation to the amount of the fine. It is not admissible that the fine should bear more heavily upon the condemned than the privation of liberty. On the other hand, it is important that the man who is in easy circumstances should not be touched too lightly. In the first place, it is naturally the task of the legislator to fix the limit of its application. It should conform to the economic conditions of his country, and that is precisely why it is impossible to establish any average of international application; but Mr. Tarnai would establish feeble minimums and strong maximums, because in that manner we shall give to the judge a greater latitude.

Several reporters recommend various rules for the collection of the fine. Mr. Tarnai confined himself to laying down the general rule that the ordinary recovery of the fine should belong to the authorities charged with the execution of the sentence, but that its compulsory recovery should be committed to other agencies, such as to tax collectors.

Another method of paying the fine is through public work. This system resembles that of paying in installments. The reasons which support one method are valid for the other. It suffices to adopt the principle and to leave different countries to work it out according to the form of their institutions. If the fine is unpaid and irrecoverable it may be replaced, according to the opinion of the majority of reporters, by a sentence of imprisonment. As to the form that it

should take, some reporters recommend solitary confinement and others compulsory labor.

Mr. Brück-Faber would remit a portion of the fine on condition of its prompt payment, a suggestion which Mr. Tarnai regards as wise and humane. Mr. Tarnai concluded his able review of the various reports by submitting definite conclusions, which furnished a basis of discussion.

DISCUSSION.

Mr. Roux supported the conclusions of his paper, already noticed, that the fine is the principal penalty which should be pronounced in all cases in which the offense is not grave and where the delinquent is not a great criminal.

Doctor Castorkis, an official delegate of Greece, contrary to the opinion of the reviewer, thought that we should avoid the conversion of a fine into imprisonment. This substitution was derived from a time when offenses could be compounded by permitting the offender to discharge his obligation in money. Happily we are beyond that point to-day; but the change of the fine into imprisonment is only the repetition of the change of the ancient geldbüsse into a physical punishment. He preferred to the substitution of imprisonment for a fine the application of other means, notably its discharge by labor. Messrs. St. Aubin, Pierántoni, Oberschall, Durand Berelet, André Mercier, Locard, Chaumié, and Madame Lydia Poët took part in the discussion and proposed various amendments.

The recommendations of Mr. Tarnai were adopted, modified by an amendment introduced by Doctor Castorkis in favor of the discharge of the fine by work instead of imprisonment, and amendments were proposed by Messrs. Saint-Aubin, Locard, and Chaumié to the effect that the fine should never be made a matter of joint responsibility.

RESOLUTIONS ADOPTED CONCERNING FINES.

I. The penal code as a general rule should authorize the judge to apply a fine as a supplementary penalty in all cases where greed is recognized as a motive for the commission of the offense.

In addition the code should designate in a special part those offenses which, apart from the motive of greed, may be the subjects of a fine as a supplementary penalty.

The maximum and the minimum of the fine should be fixed in a general way.

II. 1. In the judgment the fine should be fixed proportionately to the fortune of the convicted person. To this end the judge should ascertain in the course of the procedure the financial condition of the accused. If he is without means, the judge should declare the fine

irrecoverable. That fine is regarded as irrecoverable whose payment would encroach upon the necessities of life of the condemned.

2. The authority charged with the execution of the judgment should be authorized to permit the payment of the fine by instalments or by public work. The convicted person should have the right of appeal to superior authority against the decisions of the executive authority.

3. The remainder of the fine should be remitted to the person who punctually pays when due three-quarters of his payments or of his obligation to work without having incurred a new condemnation.

4. In case of the insolvency of the condemned person the substitution of imprisonment for the fine should be avoided by resort to other means, and especially by labor for the Commonwealth.

5. The fine is not to be exacted from the heirs of a deceased delinquent.

6. Joint responsibility with reference to a fine should never be imposed.

THE OFFENSE OF SWINDLING.

Question 2.—What are the constituent elements in the crime of swindling?

The commission in submitting this question for discussion called attention to its practical character.

The abuses which are more and more propagated in our economic life, as well as the importance of protecting honest commercial interests, make it necessary that penologists should study thoroughly the continually multiplying problems which show the need of repressing these abuses. Different penal codes differ much as to the elements which enter into swindling. In certain codes, and the Hungarian code is of the number, these constituent elements are defined in such a manner as to forbid the punishment of swindling in many instances because this or that constituent element of the offense is lacking; and this in spite of considerable damage to, or the complete ruin of, the person swindled. It is important, therefore, to study this question with reference to a more precise definition of the constituent elements of swindling.

Five writers discussed this question, namely, Messrs. Berlet, Garaud, Saint-Aubin, Simons, and Typaldo-Bassia.

The discussion of this subject gave an opportunity to spin somewhat finely certain subtle distinctions which enter the web of the criminal law and are not always recognized by the laity. Mr. Berlet, juge d'instruction of the tribunal of Clamecy, Nièvre, proposed to define more exactly the offense of swindling by making it include "whoever, whether by aid of a false name, or of a false character, or of any other false allegation, or by using any false contrivance to impose upon the credulity or confidence of another, shall have secured

or attempted to secure property of another." He thought it well to adopt the general terms of the Belgian and of some of the Swiss codes describing swindling as an abuse of confidence or of credulity.

Mr. Garaud, professor of criminal law at the University of Lyons, held that an extension of the idea of swindling is desirable for several motives. That form of criminality develops with civilization. Those who practice it often display real qualities of intelligence and activity. They are able to profit from the legal flaws which occur in laws enacted for their repression. A net designed to catch them must be very strong and of small meshes, if they are not to get away or break through. According to Mr. Garaud, the French code (art. 405) is defective. The courts try to strengthen social security by the interpretations they give, but these efforts have a limit and swindling is punishable only under three aspects, namely, the employment of fraudulent means, the object of the agent, and the result of the operation. European codes have enlarged the circle of repression by enlarging the idea of the offense. That is the idea which should be followed. The most simple and the most rational method consists in including the idea of swindling. Thieves and swindlers belong to the same criminal class. They are moved by the same motives. Why make two offenses when in reality they are but one? To regard swindling and stealing as similar offenses is to give unity to penal conceptions and to simplify them. The difficulty is to find a general formula sufficiently precise, not too arbitrary, and sufficiently flexible to permit the punishment of those who fraudulently appropriate the property of others.

To some this procedure will appear radical. Many penologists think there are serious advantages in a more precise analysis of the different means of appropriating the property of others. Swindling is nothing but criminal fraud, and it is vain to seek to separate criminal fraud from civil fraud. That which society seeks to repress in swindling is not so much the lie, the deceit, the fraudulent device, as the appropriation of the property of another committed by these means. In short, the theft, taking this word in its popular and general sense, the lie, the deceit, the fraud, only becomes a crime when these means or methods have been employed to despoil another.

Professor Garaud maintains very positively that the law can not pretend to punish a lie alone, for a lie is not a crime, because one should not believe easily and without verification the word of another, and one can only blame himself for the damage that has come to him from his credulity. That which the law exacts, in order that a lie should become a criminal procedure, is the employment of facts, the arrangement of stratagems, the use of devices, the object of which is to give credit to the lie and to deceive another.

Mr. J. Saint-Aubin, director of criminal affairs in the ministry of justice of France, presented a report in which the constituent elements of swindling were carefully analyzed. He distinguished it from theft, which is an abstraction of property exclusive of all consent, or from an abuse of confidence, in which the property has been voluntarily yielded anterior to the fraud, or from blackmail, under which property is delivered under menace, and from other forms of deception. Analyzing the general definition of fraud we find a fraudulent intention on the part of the swindler, an employment of fraudulent means to deceive his victim, a delivery of property obtained by this means, and the appropriation of such property.

Mr. Saint-Aubin concludes, after comparing various methods of relief, that since it is impossible to enumerate all the forms and devices under which swindling may be exercised, accompanying a detailed enumeration of examples in the code there should be a provision sufficiently general to arm the judge effectively against all forms and combinations of swindling without exception.

Dr. D. Simons, professor of penal law at the University of Utrecht, Holland, recognizes, as do others, the different provisions of different penal codes, few of which correspond exactly. But this difference is not so important as it may seem to us. Three elements are necessary for the existence of the crime of swindling: The material element, the result of the action; the moral element, the end of the action; and finally, the means by which the result is attained. The crime consists in uniting the intention, the means, and the result, and these provisions we may discover in different codes. Doctor Simon presents an analysis and comparison of different codes and asks what choice shall we make between such a number of legal definitions? In his opinion a congress is not capable of adopting a precise formula and it should not even be its task. If we desire a general formula so broad that every fraudulent action may be covered in its terms the following might suffice:

Every individual is punishable who with the desire of securing illicit gain causes by means of fraud some loss of property to another. With a definition so elastic no swindler could escape punishment. If such a broad definition is not desired then it will be necessary to indicate exactly what fraudulent means must be employed to render swindling punishable. Whatever formula may be used there are always cases which fall outside of its limits. He opposed definitions which left to the judge and not to the lawmaker the decision of what is punishable and what is not.

Mr. A. Typaldo-Bassia, of Greece, also called attention to the lack of uniformity in different codes in the definition of swindling. But he maintained that there is no criminal act where the incrimi-

nation can be made with more precision and judicial clearness. He conceded that the criminal should be studied with reference to his instincts, his tendencies, and his environment; but urged also the importance of clearly determining in repressive legislation the constituent elements of an offense. Mr. Typaldo-Bassia devoted some pages of his report to an interesting and careful comparison of the features of different criminal codes. He argued that there would be a great advantage in having penal offenses defined and unified with precision in different codes. Repression must also be international. Crime in changing its latitude does not change its character. But to apply this principle it is important that a crime shall be defined in all countries in the same manner. We can look forward to such a time without being charged with Utopanism. Already the Norwegian penal code has introduced an innovation in this respect. Article 61 authorizes courts to take into account in determining the question of habitual criminality a condemnation pronounced under foreign jurisdiction. Mr. Typaldo-Bassia concluded that the definition of the French code as to swindling though the oldest was the best.

The reviewer was Dr. Isidor Baumgarten, of Budapest. The art of swindling consists, he pointed out, in provoking the cupidity of the injured party and inciting him by this means to do something which he believes of material advantage to himself, but which really results in a loss. Only one of the writers, Professor Garraud, proposed to modify the classification of the offense by including swindling in thievery. But a change in the classification would be of no practical importance. The prevailing tendencies of our day influence social development through the penal law. We are obliged more and more to protect intellectual feebleness from being made the instrument of superior minds. The motive is praiseworthy, but we must not make a mistake in the choice of means. In deciding the question whether fraudulent devices have been used, the judge should always consider the skill and subtlety of the accused while taking account at the same time of the social position and the intelligence of his victim. A procedure which would only provoke a smile of mockery from a city dweller used to such shrewdness would have to be classed as swindling if employed against a peasant removed from the world. Therefore in deciding the question as to whether or not fraudulent devices have been employed we must take account the personality and the social position of the accused. A jeweler selling base metal for gold is regarded as a swindler because the fraudulent action consists in the very establishment of a business of that kind. On the contrary, he who buys from an unknown person whom he meets in the street a metal ring paying more than its

worth, can not complain that he has been swindled. In conclusion Doctor Baumgarten regarded the Norwegian code, which only requires proof that one was deceived or the confirmation of the deception without reference to the means, as expressing an exaggeration of modern reformatory tendencies. From a technical point of view the general definition of swindling as given in the German, Hungarian, and other codes is preferable to the casuistic details of the French code.

DISCUSSION.

Dr. Ugo Conti, professor of criminal law and official delegate from Italy, thought that the discussion of the first section ought to be limited more strictly to questions bearing upon penological science, and not take the place of a purely juridical congress. The function of the first section should be to furnish a judicial and scientific basis for the other discussions of the congress. His proposition that in the future the discussions of the first section should be limited to subjects which have a direct bearing upon the solution of penal questions was rejected by a vote of 17 to 13.

Mr. Durand held that to repress this crime the judge should have a certain liberty, and that the terms of the law should only be general, and that the judge should consider the fraudulent intention and the gravity of the devices employed as well as the intelligence of the victim.

Mr. Locard maintained that when the question concerned the text of a penal code the provision should be made precise, and that if the term "false allegation" were introduced into the penal code the judge would have power to punish any falsehood. Many commercial acts are accompanied by statements more or less false or inaccurate.

Mr. Berlet said that deplorable results had come from the distinction which the makers of the penal code had wished to preserve between civil deceit under the civil code and swindling under the penal code. Innumerable cases could be cited in which the magistrate had been obliged to acquit or to abandon the prosecution when the fraud was evident.

Mr. Pierantoni, of Italy, said that in the papers and in the discussion three systems were evident. The first proposed to include swindling in thievery; that would be to condemn the problems resolved by penal law in the last two centuries. A second system would discard all separation between penal law and morality. The idea of punishing every falsehood would constitute a danger which might even affect the civil law. We have seen individuals under guardianship making purchases from strangers, declaring that they were capable of making contracts. Yet they have not fallen under the blow of the penal law. In commerce tailors, for example, will

give you as imported goods poor cloth of a bad quality, and yet they are not punishable. The third system maintains the grand traditions of the Roman law; a fraud and fraudulent devices causing injury. He was an advocate of that law which includes the constituent elements of the offense of swindling. The court of appeals is competent to annul the sentence if the fact proved is not a fraudulent device. He did not see the practical end to be attained in proposing to the different governments modifications of the penal law with reference to a single offense.

The discussion was further continued by Dr. Lydia Poët, Mr. Mercier, and Mr. H. Speyer.

Mr. Hayem, advocate of the court of appeals of Paris, offered a resolution that a commission be named by the different Governments and appointed to elaborate an international agreement, for the purpose of punishing swindling as an international offense.

Mr. Pierantoni opposed the resolution, which was rejected by a vote of 14 to 8.

Other amendments were rejected and the section adopted the conclusion of Doctor Baumgarten.

RESOLUTION ADOPTED CONCERNING SWINDLING.

The congress declares itself in favor of a revision of various penal codes, now out of date, regarding swindling, so as to bring them into harmony with the developments which have taken place in the last century in financial, commercial, and industrial affairs.

THE RECEIVING OF STOLEN GOODS.

Question 3. Should the receiving of stolen goods be considered as a distinct offense or as an act of complicity?

This question was admitted to the programme in deference to a desire expressed by the section on penal law of the congress at Brussels, which desire was ratified in the general assembly. In the course of the discussion concerning the principles to be followed in determining the limits of the competency of criminal justice with reference to the prosecution of offenses committed abroad or in cooperation with individuals, whether citizens or foreigners, residing abroad, M. de Rode, director-general of the ministry of justice and reporter-general upon this question, declared his adhesion to the opinion of M. A. Le Poittevin, one of the reporters, namely:

The receiving of stolen goods should be prosecuted in the country where it has been discovered, whatever may be the locality of the principal offense which has occasioned or stimulated it.

After an animated discussion, in which many questions of international law were raised, the section, at the suggestion of its presi-

dent, Judge Felix Voisin, decided to refer to the congress at Budapest a resolution offered by the reporter-general that "the receiving of stolen goods should be considered not as an act of complicity, but as a distinct offense."

Six reports were presented for the congress at Budapest by the following writers: Mr. Paul Angyal, professor of law at Paks, Hungary; Mr. Berlet, juge d'instruction of the court of Clamecy, France; Mr. Chervet, doctor of law and deputy attorney-general of the court of appeals of Aix-en-Provence, France; Mr. Orano, professor of the University of Rome; Mr. Pascaud, counselor of the court of Chambéry; Mr. Le Poittevin, professor of the faculty of law of the University of Paris.

This question of the receiving of stolen goods has been treated under different aspects at various international prison congresses. It was presented first at the congress of London, in 1872; then at the congress of Rome, in 1885; was formerally introduced as a question at the congress of St. Petersburg in 1890; discussed incidentally at the congress of Brussels in 1900, and then referred, as we have seen above, to the congress at Budapest. The congress at St. Petersburg considered the special means to be adopted for reaching in an effective manner habitual receivers of stolen goods. One of the means suggested was the adopting of certain laws or regulations relating to bankers, money changers, jewelers, and dealers in curiosities, so as to prevent more effectually the receiving of stolen goods; and, secondly, to make such receiving not an act of complicity, but a special offense; and, thirdly, to establish cumulative sentences for habitual repeaters of this offense.

It would seem, therefore, that the International Prison Congress had sufficiently declared its judgment on this subject; but the rediscussion was suggested at Brussels by the international aspects of the subject, especially when goods stolen in one country are disposed of in another.

All the writers of reports agreed in the conclusion that the receiving of stolen goods should not be regarded as an act of complicity, but as a separate offense. A very thorough discussion in all its aspects was presented by Professor Le Poittevin. His conclusions were expressed in eleven propositions, the most important of which are the following:

1. Receiving is a special offense.

2. There is a connection (not complicity) between the receiving and the offense which has procured the object received.

3. As a consequence of the first proposition, receiving may always be tried in the countries where it is committed, even though the principal offense has been committed in another country.

4. As a consequence of the second proposition, there is ground for joining the two prosecutions when the receiving and the principal offense are committed on the same territory.

5. Receiving, like every special offense, admits in its turn of complicity.

6. The disinterested motive of the receiver—that is, when it takes place without any purpose of gain, but simply to render service to the author of the theft—may be a cause for a lighter judgment.

7. Receiving admits of various circumstances which heighten the gravity of the offense:

(*a*) When the receiver is an habitual offender.

(*b*) Circumstances making the original theft more serious.

(*c*) An agreement in regard to receiving made anterior to a theft might also be considered as making the offense more serious.

8. Habitual receiving being of itself an aggravating circumstance, there is no ground for establishing a particular system of cumulative sentences in case of its repetition.

Mr. Berlet showed that the greater part of the criminal codes regard receiving as a special offense independent of the theft which has preceded it. This is true of the penal codes of Germany, Hungary, Belgium, Denmark, Spain, Italy, the Netherlands, and of all the penal codes of the Swiss cantons, except that of Valais. On the other hand, this canton and all the penal codes which received the direct stamp of the penal code of France of 1810 have reproduced article 62 of that code and have considered receiving as a simple act of complicity. This is true of the code of Sweden and that of Portugal.

The reasons for the adoption of the system of this last group of codes are easily seen: There can be no receiving without previous theft; the receiver continues the work of the thief in depriving the legitimate possessor of the object stolen; the receiver derives a benefit from the theft, which sometimes is considerable; the facility given to the thief to dispose of the object stolen and the illicit gain assured to the thief promotes thieving and makes its discovery more difficult; it does encourage the thief and excites to larceny, whence comes the adage "without a receiver no thief." These reasons, showing the relation of the receiver to the thief, decided the ancient lawgivers to punish the receiver with the same penalty as the thief.

The inconveniences, however, of such subordination of receiving to theft are suggested by the question of the congress, and are of three kinds:

1. The exemption from prosecution of the principal offense carries with it that of subordinate infractions; receiving is not therefore punishable when the theft is outlawed, even though it may have been committed some time after the original offense.

2. Amnesty granted to principal offenders applies also to their accomplices; the receivers of stolen objects enjoy the benefits of an amnesty granted from political motives to those who have pillaged during an insurrectional movement.

3. A theft committed in a foreign country by a foreigner is not punishable in France, Portugal, or Sweden, nor in any of the countries maintaining the same system. If objects thus stolen are sold in one of these countries, their purchasers, willing and knowing receivers, are not more punishable than the author of the principal offense. It is to be remarked besides that receiving is an absolutely distinct act from theft. The motive of the receiver is not necessarily the same as that of the thief. While the thief is sometimes driven by necessity, during a temporary absence of his moral sense, the receiver is almost always a vile trafficker, not demented by misery, who seeks to enrich himself at the expense of others. Most of the time the receiver is more guilty than the thief. It would be, therefore, equitable and wise to be able to punish the receiver more than the thief, even if they are prosecuted at the same time.

Mr. Chervet referred to the fact that the principle of territorial sovereignty prevails in penal law as in other respects. But in the degree that frontiers cease to be impassable barriers between States, and as different people united by many interests intermingle more freely, the more numerous and the more difficult of apprehension become the crimes which are committed in various countries, whether viewed with respect to their authors or their accomplices or with reference to the place where the acts are committed. Thus, owing to conflicts of jurisdiction, the guilty easily escape. The modern tendency of civilized countries is toward some agreement in their legislative systems. Mr. Chervet concluded:

1. The receiving of stolen goods should be considered as a special offense and be punished by a special penalty.

2. It is desirable that some international understanding should subsist which would permit of the prosecution and judgment of receivers, whatever their nationality, in any country where they may have been convicted of such an offense.

3. As a corollary of the second proposition, it is desirable that common measures should be taken to prevent the same individual from being punished several times for the same act.

Mr. Giuseppe Orano, professor of the University of Rome, presented an extended study and analysis seeking to determine the judicial value of the offense of receiving, and indicating the different circumstances which make more serious this offense and constitute a form of complicity. His analysis followed mainly the distinctions recognized in the Italian penal code.

1. His answer to the main question was that receiving stolen goods knowingly, without previous understanding or agreement, is not a form of complicity with the principal offense.

2. Receivers and their habitual abettors can not be considered as accomplices.

3. On the contrary, those receivers should be regarded as true accomplices who carry the offense to ulterior consequences, as should their abettors if they are involved in successive offenses.

4. The receiver and the person who subsequently aids in the offense as the result of some previous agreement are to be considered as accomplices not less than those who habitually give refuge to malefactors.

Mr. Pascaud agreed with other reporters with the exception of Mr. Orano in regarding the receiving of stolen goods as a special offense to be prosecuted and punished in every country in which it is committed.

Mr. Angyal had the double task of submitting an independent report and also of preparing as reporter-general a review of the papers submitted. His personal report presented an interesting historical review of ancient and modern Hungarian legislation on this subject, followed by a comparison with foreign codes.

In his general report he paid special attention to the question of territorial jurisdiction, approving the proposition that the receiving of stolen goods should be judged and punished in the country in which it is committed, whatever may be the place of the principal offense. It is for the interest of all civilized governments to maintain the greatest security by prosecuting unsparingly the receivers of stolen goods. Mr. Angyal's conclusions furnished the basis of discussion.

DISCUSSION.

Miss Lydia Poët, doctor of laws from Italy, held that if receiving is made a special offense it is necessary that the receiver should be punished where he exercises his industry by the law of the country which punishes receiving as a special offense. It is not necessary to raise delicate international questions. If we admit that receiving is a distinct and independent offense the country in which the offense has been committed must punish it, making use of such information as it may obtain in regard to the theft, without it being absolutely necessary that the court in trying the receiver of stolen goods should take jurisdiction of the theft, if the offense of receiving has been proven.

Mr. Pierantoni, of Italy, also took a similar view. The moment that the receiving of stolen goods is made a special offense we should leave every code to deal with it without reference to the theft.

Mr. Feuilloley, of Paris, believed that it would improve the actual state of affairs if, as proposed by the reporter-general, the judicial authority which had jurisdiction of the principal offense, the theft, should also try the receiver of stolen goods, whatever might be the court, but he found this proposed improvement still insufficient, for in practice it would leave a great number of acts unpunished. For instance, a theft is committed in Belgium; the thief sells the object stolen in Paris; Belgian justice could, as proposed by the reporter-general, prosecute the receiving of the stolen goods committed at Paris and condemn the receiver, but to escape the execution of this condemnation it would simply suffice for the French receiver not to cross the Belgian frontier, and he could peaceably enjoy in Paris the fruit of his guilt. That is not meeting the ends of justice. To reach the desired end, we must go further and recognize the jurisdiction of the judicial authorities in the place where the receiving of stolen goods has been committed. Penal law, in fact, under the principle of territoriality, admits the competency for trying an offense by the judicial authority where the offense has been committed, and one ground for it is that the law of the state in which the offense has been committed has been violated, and the state is interested in putting down the offense. He might be asked if the principle of territoriality would be effective.

There can be no doubt of this after having studied the results obtained in England under the "larceny act." Before England by this act had made the receiving of stolen goods a special offense, London was the market of securities and valuables stolen upon the continent. There existed in that city agencies for stolen goods which, under the name of banks, proposed to the victims of the theft, with the knowledge of the police, who were powerless to prevent it, the repurchase of their securities at one-third of their value. Since the receiver of stolen goods may be prosecuted in the United Kingdom in any place in which he, with full knowledge, has in his possession an object obtained by crime, this abominable traffic has in great measure disappeared from England. Let that provision of the English penal law be introduced in all the codes and the international receiving of stolen goods will quickly disappear, a crime which is becoming more and more a danger to society. For this reason he wished to amend the proposition of the reporter-general so that the special offense of receiving stolen goods, like every other offense, might be tried before the judicial authority of the place where it has been committed, which would not exclude the competency of the judge of the place where the original theft had been committed. It goes without saying that the rule of law, *non bis in idem*, should be applicable and that the receiver of stolen goods who has undergone a penalty for

his offense under one or the other of these jurisdictions should not be retaken and tried for the same offense.

Mr. Ragnault thought that this proposition involving prosecutions in the countries where the theft has been committed and in that where the stolen object has been received would lead to endless complications.

Dr. Paul Oberschall, of Hungary, said that admitting the principle, upon which there was general argument, that the receiving of stolen goods is a special offense, we can not nevertheless ignore the fact that the receiving of such goods can only be proven when the preceding theft has been established. In the interest of the prompt execution of criminal justice it is of extreme importance to accept reciprocally anterior judicial findings in cases where the fact of theft and that of receiving the stolen goods have been established upon the territories of different States. He offered a resolution to that effect, which was signed by Messrs. André and Durand.

Judge Baldwin, of the court of errors, New Haven, Conn., said if it is true that jurisprudentia omnis definitio periculosa est, a fortiori, it is dangerous to introduce a new rule of law and of procedure. In a vast country like the United States, made up of the union of several independent States, it would be impossible to assemble the proofs of the receiving of stolen goods for the court trying the theft. It seemed to him that the principle already adopted by the congress, in virtue of which the receiving of stolen goods must be considered as a special offense, required that the objective theory should be applied and that the matter should be determined in the country where the new offense was committed. The great thing to establish is the fact of the receiving of stolen goods.

The proposition of Mr. Oberschall was opposed by Mr. Pierantoni. The proposition of Mr. Feuilloley was supported by Mr. Speyer.

Miss Lydia Poët quoted the English larceny act of 1896 and regarded it as an excellent model for laws to punish the receiving. After further discussion, in which Mr. Durand and Dr. Edmond Weiss, of Kassa, Hungary, participated, conclusions were adopted by the section which, with slight amendments, were adopted in the general assembly.

RESOLUTIONS ADOPTED CONCERNING THE RECEIVING OF STOLEN GOODS.

1. In the opinion of the congress the receiving of stolen goods should be considered as a special offense.

It should be considered as having taken place even when the original offense (theft, etc.) may not be punished or may be oblit-

erated by law owing to certain considerations or circumstances relating to the author of the first offense.

2. The offense of receiving stolen goods, constituting a violation of the law of the state within whose territory it has been committed, should be punished according to the law of that country.

At the same time the delinquent should not be tried and punished again if he can show that he has been tried by the state which has taken cognizance of the original offense, and that in case of condemnation he has undergone the penalty.

3. To facilitate the international prosecution of the receiver of stolen goods an international contract should be made between nations in order that the offense once proven in one country may be accepted everywhere as an established fact.

THE REFORM OF THE JURY SYSTEM.

Question 4.—Have the results of the jury system been such as to call for certain reforms?

The commission, in submitting this question to experts in different countries, accompanied it with the following explanatory note:

> The jury system should be studied with reference to the main principle which has inspired it; but it will be useful also to study the laws of different countries where it exists. It must be conceded in general that this eminently democratic institution has not always remained a stranger to certain influences which tend to deprive it of its impartial juridical character. Political passion, ignorance, interest, fear, excessive clemency or severity, the influence of public opinion, are among the causes which work upon these judges of a day whose verdicts are controlled only by their consciences. May it not be possible to find means to check these abuses in a certain measure? If in any case, by reason of these real abuses, the scope of this institution should be somewhat restricted, would it not be useful to preserve it for the judgment of certain offenses invested with a political character or relating to public order?

Eleven reports were submitted on this question from representatives of Belgium, France, Germany, Hungary, Italy, Russia, Switzerland, and the United States. The information presented in these reports constitutes a large and valuable array of facts concerning the working of the jury system in different countries, accompanied by opinions more or less positive as to its maintenance, improvement, or abolition. Some interest would attach to a classification of these reports according to the countries from which they emanate, but this would be nullified to a certain extent by the fact that advocates and opponents of the jury system are found among the lawyers and judges of the same country. In the United States, for instance, while the abolition of the jury system is hardly suggested, there is a strong difference of opinion as to whether the system should be modified and what should be the nature of the reforms to be introduced.

In some of the papers presented the views of the writers were so individual as not to be easily classified. These reports make in themselves a large volume. It is only possible to give here an outline of the opinions advanced.

THE JURY IN BELGIUM.

Mr. H. Speyer, member of the bar of the court of appeals in Brussels, and doctor of laws of the free University of Brussels, confines himself to results given by the jury system in Belgium. To be on the list of jurors Belgian citizens must be 30 years of age, in the enjoyment of their civil and political rights, and paying to the State taxes varying from 90 to 250 francs, according to the provinces where they exercise their political functions, and whether they belong to a profession open only to those having completed higher studies. This general list is reduced to one-half, first by the president of the tribunal, assisted by two judges, then a second time by the first president of the court of appeals, assisted by two counselors. These two series of eliminations are made in the chamber of the council without requiring the magistrates who have charge of this duty to explain or justify in any manner the choice of names. In the meaning of the law their aim is to discard citizens whose character and intelligence are uot sufficiently guaranteed, although they comply with the conditions exacted by the law.

The Belgian jury recruited from two categories of citizens, the one taxpaying voters, and the other made up of citizens of professional capacity, includes representatives of all the nonlaboring classes of society, and thus realizes one of the essential conditions necessary to its operation.

One of the great advantages which the jury system presents is that public opinion is associated with the administration of penal justice. The confidence which the independence of the jury inspires in the masses, its intimate contact with public sentiment, and the exact conception which it possesses of the average and popular standard of morality, assure to criminal justice an equilibrium and an authority which no other judicial institution could give to it.

On the other hand the exercise of this mission committed to the jury requires that its composition shall be as eclectic as possible, for to weigh proof there is no instrument of judgment more sure than the opinion of a group of persons who, without constituting a crowd or an assembly, are yet sufficiently numerous so that the problem to be solved may be committed to individuals belonging to different classes of society, and having, consequently, different education and habits of mind.

The composition of the jury in Belgium has been the object of more than one attack. It has been maintained that the basis of selection was too large, and that it must be restricted; but, as Cruppe has said, there is no greater probability of finding the ideal jury among the "mandarins of science or of money" than in any other group of society. Eminent thinkers and scientists are not always marked by a practical sense or a judicial spirit in the practical affairs of life, nor does the possession of a large fortune show mental illumination.

Under the Belgian law there is a vague yet real correspondence between the right to vote and the right to judge. If the jury list is to undergo modifications its basis will rather be enlarged than otherwise. Already efforts have been made in that direction so that in a not distant future the law may be amended so as to associate the working class with the administration of criminal justice. The collaboration of the working classes assures to criminal justice a greater confidence and popularity in one of the most important strata of society. Mr. Speyer, however, does not favor this change, on the ground that the working classes, though honest and capable of clear judgment in practical affairs, have not received that training which develops the critical spirit and the power of attention which fits them to follow and understand a trial lasting several days and to analyze a great mass of testimony.

As to the practical working of the jury system in Belgium, Mr. Speyer thinks the jury has been the guardian of the constitution, and although it is made up of members from a certain class it has not been partial in its judgments. Mr. Speyer, however, calls attention to the defects of procedure under the Belgian system under which too much opportunity and too much preference are given to the prosecution, and an impression is early made on the jury in favor of the prosecution which it is not easy to modify or remove by the defense. The equality between the accusation and the offense in the first stages of the trial should be restored.

To resume, the faults of the jury system in Belgium are not to be found in the institution itself, nor in the method of selecting jurors, but simply in the faults of a badly organized system of procedure, rendered worse in practice than in theory.

A FRENCH DEFENSE OF THE JURY SYSTEM.

It was natural that the jury system should find its main supporters in countries essentially democratic. The admirable report presented by Mr. E. Garçon, professor of criminal law and comparative legislation of the University of Paris, found acceptance not merely as a de-

fense of the jury system in France, but as a vindication of the institution in all countries where political liberty has achieved its greatest triumphs. Professor Garçon pointed out that the jury is essentially a liberal institution; that it can only work in a country possessing a constitution founded upon liberty itself. In such a country it appears as an essential part of the general organization—a bridle necessary to regulate the action of repressive justice. It is an invincible obstacle to despotism and arbitrary government. Historically, the jury is indissolubly joined with civil and political liberty, and when this has been defeated the jury has always perished with it. This was the supreme principle which established it in England and in France under the Revolution of 1789. If we adopt any other point of view we are not able to judge the system fairly. In fact, we can not even comprehend it. No human institution is perfect; none escapes criticism. Liberty is never without peril; but if we mean that it shall govern it is necessary to accept its consequences to avoid greater evils. This is why the detailed criticism of the jury and also the mockery directed against it can not touch it in a democratic country, because the principle upon which it is founded is placed too high.

If the jury system is to work successfully there must exist a public spirit. The juror must be not merely a man of right spirit, broad-minded, and intelligent—he must be accustomed to taking part in public affairs, in the direction of public policies, through exercising the right of suffrage and promoting the collective interest of the social life. This is why among certain people the jury is an indestructible institution. If the jury has been established without these essential conditions being fulfilled, we must not be astonished if bad results follow. Where liberal institutions do not exist or are only a vain show, where the government itself designates the jurors, as it chooses the representatives of the people, popular justice may be transformed into justice by commission, and there the system may present no real advantage.

Passing from this general introduction to speak particularly of the jury system in France, Professor Garçon said that it was more than a century since it was introduced and that it has so completely penetrated the life of the people and is so intimately joined to its institutions that no one ever dreams seriously of suppressing it. Since the promulgation of the code of criminal procedure in 1808 no legislative attempt has been made in this direction. Its critics have always remained within the domain of theory, literature, or fantasy; they have never had any practical influence.

After a century of experience it may be said that the jury has fulfilled its social mission. The grave offenses which it is invoked to judge have certainly diminished, and if crime in general has increased,

it is in the direction of petit crimes of which cognizance is taken by correctional tribunals composed of professional judges. This is one of the strongest reasons that may be given for the maintenance of the jury system.

Since these two forms of judicial administration, the one by jurors and the other by a council of magistrates, have worked together for more than a hundred years we may judge which is the better by the results obtained. Demonstration derived from facts and experience is more convincing than any argument.

The defense of the great criminal is better assured under the jury system. In the minor tribunals most of the cases are judged with frightful rapidity. The magistrate does not distinguish between a true and serious defense and a defense without foundation, because each may resemble the other. On the other hand, the judges of minor courts in the habit of pronouncing less rigorous sentences pronounce short sentences against hardened recidivists and thus weaken the repressive features of the law.

In seeking to avoid the imperfections of the jury system we must not fall into more serious evils. In France, as elsewhere, the verdicts of juries are not always ratified by public opinion; it is sometimes thought that they have acquitted where a condemnation would have been more just, or that they have condemned where doubt existed; but no one suspects the independence or the perfect impartiality of the jurors or their sincere desire to do their duty. They are deceived because man is fallible, but they judge on their soul and their conscience as their oath requires. The professional magistrate is more easily suspected.

The ignorance of jurors is one of the principal objections made against the jury; but it must not be forgotten that before the matter is submitted to the jurors it is examined from a juridical point by the magistrates. No one can be brought before the courts except by virtue of a warrant based on the supposed commission of a crime. The questions of law may be discussed too before the court of appeal composed of professional magistrates. Aside from that there are only two questions to be solved: Is the accused the author of the act of which he is charged? Is he guilty and should he be punished? Professor Garçon was in marked agreement with the Hon. Joseph Choate, of the United States, in maintaining with great positiveness that the jury is entirely competent to decide these questions, and that it is done better than it would be done by professional jurists. What is wanted is not technical legal knowledge, but average intelligence and clear common sense.

After answering in detail objections to the jury system based upon the assumed weakness of jurors in dealing with crimes of passion,

and their indulgence in dealing with political crimes, and defending juries for pronouncing penalties which the rigor of an ancient penal system often imposes, Professor Garçon showed that the jury represents the popular conscience and it renders decisions more in harmony with the standards of their own time. An important question is how the jury lists shall be made. They must be chosen in a manner which will insure their independence and freedom from Government dictation. Under the pretext of improving the list the working classes must not be excluded from representation. In France they make excellent jurors.

In concluding, Professor Garçon said:

I have defended the jury. I believe experience proves that this form of administering justice among a free people is preferable to that of professional magistrates, because it is a surer guarantee of political liberty and the rights of the accused; because its suppression of crime is better and more flexible. It can be rigorous in combating dangerous criminality, but at the same time, freed from the letter of the law, it may be indulgent and merciful for those faults which the human conscience may excuse. I have no anxiety as to the maintenance of that institution in my republican country, but when it is attacked, not without passion, I wish to defend it and make at least my protest with the ardor of profound conviction. I conclude:

1. The jury can only succeed by reason of its principle and its spirit in free countries, and in countries where it is an integral part of, and a necessary complement to, the constitution.

2. In countries where it may be organized it should not be restricted, but its power should rather be enlarged so that the people may be more and more concerned with the administration of criminal justice.

3. To be a juror is to fulfill a public duty. This service should be open to all citizens having an average education and honorable character. The Government and the administration should not exercise any influence upon the choice of jurors.

4. The laws of procedure should be so regarded that questions of fact only may be submitted to the jury under clear interrogation. Questions of law should be decided by professional magistrates, whether before the arraignment of the prisoner, before the jury, or during the progress of the trial.

The principle of the jury system and its operation in France were also defended by Mr. Gabriel Chervet, deputy attorney-general (substitut du procureur général) of the court of appeal of Aix-en-Provence, France. He recognized the severity of the criticism made by the late Gabriel Tarde, the eminent author of La Philosophie Pénale, who considered the jury as a superstition, a relic of medieval conceptions and regarded its complete abolition as desirable and necessary. The jury system is too intimately united to political conceptions to be modified in its essential character, said Mr. Chervet, in rejecting Mr. Tarde's assumption, but it may be possible to correct its defects. The

reason of so many acquitals in France is because the jury refuses to impose the full weight of the antique penal code of 1810 which preserves the rude stamp of the genius of Napoleon. Its penalties are too rigid and excessive. It has been proposed in France to amend the law so as to make every voter a juror, but Mr. Chervet maintained that one might be an excellent citizen and a good man without being a good juror. The reforms he suggested were first to enlarge the jury list; second, to organize a system of selection based on guaranties of probity, intelligence, and capacity; third, to give to jurors the privilege of according to the accused the benefit of mitigating circumstances and of suspended sentence.

ITALIAN CRITICISM OF THE JURY SYSTEM.

We have given above a defense of the jury system by a distinguished French professor. The contrast to this view was most positively presented by the distinguished Italian jurist, Baron Garofalo, president of the court of appeals of Naples, and formerly professor of the university and member of the Royal Academy of Naples. Baron Garofalo is known as one of the leaders of the positive school in Italy. In his paper he said:

I have always thought the establishment of a jury in criminal cases was one of the strangest aberrations of our times, and I have never been able to find any importance in the arguments advanced to justify its existence. It is true that it has been introduced successively in nearly all the countries of the civilized world, but it is equally true that it produces everywhere deplorable results. There are, however, two countries which have refused to admit it in their laws. They are Holland, one of the most advanced nations, and Japan, which has secured the admiration of the entire world by the rapid steps which in a few years have brought it to so high a level. It is noteworthy that these two nations, though not wishing to be deprived of any reform achieved through progress, have not adopted the jury system. While imitating in their codes the French system, the lawgivers of these two countries, so practical and so full of good sense, have resolutely stricken out the paragraphs concerning the jury. Are there not grounds for reflection in this fact?

My criticism is directed against the jury system of the French type. The English type is very different; it has not the same defects, although it has enough of them to mark this system with reprobation.

One of the principal absurdities of the system is evident to everybody. It is the proclamation of the superiority of the judgment given by unknown persons, who are probably ignorant, over the judgment of a selected class of persons who are generally enlightened.

The jury is absolutely opposed to the principle of the division of labor. While we should choose for every social duty those persons who have in some manner proved their aptitude in fulfilling it, jurors are not so chosen, but are drawn by lot from the population, without any guaranty of intelligence and rectitude. Yet the response

to the question: "Are special qualities necessary to judge well criminal affairs?" can not be doubtful.

In fact, in trials of every sort it is necessary that the judge should have a critical mind, sufficiently developed to seize the evidence as to different facts, to weigh the truth in the different arguments of opposing sides, to free himself from the impressions which judicial rhetoric may make upon uncultivated minds, and above all from the impression made by the orator who speaks last. It is necessary to have sufficient power of resistance not to yield to the sympathy or pity which one or the other of the parties may excite, sufficient rectitude not to yield to prayers, exhortations, or intimidation made behind the scenes. The juror must have sufficient intelligence to form an opinion, sufficient courage to maintain it. But that which he needs to have above all is a sufficiently active sense of justice, with the sense of responsibility which one owes to society. Are we sure of finding all these qualities united in the majority of the twelve jurors chosen by lot whose intelligence and character are not known, who one day may be by chance good men and another day, equally by chance, may be men without principle or learning?

The selection of jurors is a selection which secures just the opposite result from what is most desirable. The greater part of those who work or who have an occupation, do not wish to sit a day in a court which brings them neither gain nor glory. They make every effort to obtain exemption and often succeed. The best elements drop out; their places are filled by a majority from the unknown, the ignorant, those of weak mind, and those without social position.

It must be added also that the mass of the population is not in every country raised to a sufficient moral height; that there are even countries where crime is not sufficiently detested, where there is a tolerance and even sympathy for certain criminal manifestations. Have jurors any morality superior to that of the people they represent? Among the reasons advanced justifying the jury system there are two constantly repeated. The first is that the jury, by reason of its independence, is a guaranty against unjust prosecution. The second is, that the jury only sitting for a short time is free from the spirit of routine and from a systematic distrust of the accused. The first consideration hardly merits attention with reference to ordinary offenses; the influence of the executive power upon judges nominated by the government is only to be feared in political times. But when the hate of political parties drives them to crime do we find any guaranty of impartiality in a jury of whom the majority belong to one or the other of these parties? Setting aside political crimes, what government or party is there which depends upon the acquittal or condemnation of a prisoner accused of stealing, of fraud, or murder? And what reason is there to fear for justice because the judges have been chosen by the head of the state?

The second objection has no more force. The suspicion with which judges may regard the accused does not arise from a desire to condemn them cost what it may; it comes from experience which has taught them the artifice of the habitual lives of delinquents. The jury which does not take account of this is very easily deceived; it easily lends an ear to arguments which appear to be logical and whose feebleness it does not perceive. The judge has the critical spirit which is lacking in the juror.

Baron Garofalo quoted from reports of the Minister of Justice of France to show the large number of acquittals in cases submitted to juries. In Italy he says the situation is hardly better. It might be said that the courts are established to destroy in the people every idea of justice. A criminal judgment there is considered as a matter of chance. It is the judgment of the blind, and it comes from the fact that in Italy, more than elsewhere, those who occupy a high social position do not wish to be submitted to the drudgery of being drawn as jurors in trials which often last weeks and months.

I have said that the jury system of the English type has not the same defects. The trials are very short, the jurors do not have the slightest communication with anyone from the moment of their being brought together until the rendering of the verdict. That renders corruption and any interested suggestion very difficult. The questions presented to jurors are very simple. There is only one of them for each defendant: Is he guilty of the charge? And the jurors have only to respond by the word "Guilty" or "Not guilty." Everything else is the affair of the judge.

This simplification renders impossible the confusion, the contradictions, and faults of every kind when the jurors have to answer, as in the countries having the French jury system, to dozens and sometimes to hundreds of questions. Then, and this is the most important point, there is no verdict without unanimity. On the other hand, in the neo-Latin nations it suffices to have six votes to pronounce an acquittal. And these six votes are often of the most ignorant members of the jury. However, in spite of so many precautions, in spite of the care with which the English judge instructs and guides the jurors, in spite of the earnest character of these people and a probity more widely spread than among others, errors of the jury are frequent in England, and they are sometimes very gross. And what shall we say of that which happens in the colonies? In India, for example, a report informs us that there are sections where the corruption of the jury is practiced in the most shameful manner. A distinguished man, the chief justice in Allahabad, has declared that there is only one way of reforming the jury system, and that is to suppress it. That is the opinion to which I give my full and entire adhesion.

Mr. Ugo Conti, professor of criminal law in the university of Cagliari, Italy, likewise took ground that instead of trying to reform the jury system we should transform it. This should form part of a radical modification of the penal system. Without abandoning the juridical basis it should seek to know the ethico-social value of the criminal act. Every accused person should be the object of a study relating to his antecedents, the motive of his act, and his individual character. The penal judge should be distinct from the civil judge. While having a magistracy purely professional its independence should be absolutely guaranteed. In countries which have not dared to suppress the jury system, the competence and function of the jury should be restricted. The jury should be reserved for the judgment of politico-social offenses in the proper sense of that expression—that is, offenses against the security of the State, offenses of the press,

and relating to the electorate. Apart from this the jury system should be suppressed, said Doctor Conti, because it is contradictory to sound principles and is condemned by experience.

While two of the Italian writers quoted above demanded the abolition of the jury system Mr. A. Stoppato, like his colleagues a professor of criminal law (University of Bologna), declared that the jury system could not and ought not to be abolished, because in modern life it has a specific social function. He would not say that the jury represented a power above the law; but it may temper the rigor of the law or even indicate new means and ways to the lawmakers.

He proposed to improve the jury system in Italy and offered the following suggestions:

1. Extend the competence of the jury in all crimes of a politico-social character and restrict it to those where the proof is technical or the difficulties are of a strictly juridical character.

2. Condense as much as possible the number and formula of questions submitted to the jury, excluding those which are of a strictly juridical character.

3. Extend the competency of the jury to the field of summary procedure.

4. Let the questions be submitted to the jury before discussion and after the theses, which, according to Italian procedure, the parties to the case propose to maintain, and let the vote be taken (with guaranties for the liberty, tranquillity, and secrecy of the vote) individually by each juror after the charge by the president of the tribunal, the accused and the public being absent.

5. Let no question be formulated during the trial based upon the mental infirmity of the accused when he committed the crime, if an expert examination has not been made before. If it happens that the question is raised only during the trial, this should be suspended until the conclusion of an expert examination shall be reported, and the court shall decide whether the accused shall be committed to an insane asylum or the trial be continued.

6. Strict laws should limit the judicial chronicle and forbid the publication of reports of trials before a verdict has been rendered.

It will be seen that some of these suggestions relate mainly to the Italian judicial system, and, as Mr. Garofalo has pointed out, would not affect the system as applied in England and in the United States.

THE JURY SYSTEM IN GERMANY.

Germany was represented in this discussion by a paper prepared by Mr. Richard Junghanns, attorney-general of Constanz, Grand Duchy of Baden. Mr. Junghanns pointed out the historic origin of the jury, which had its cradle in England. The English jury system has

fundamental differences from those in vogue on the Continent which do not permit of complete comparison, and it has characteristics which present insurmountable obstacles to the introduction of the English system in Europe.

In Germany the institution of the jury was introduced first in the Rhine provinces under the Code Napoléon. In the beginning it found an adversary in Feuerbach and an advocate in Mittermaier. The greater number of the German States subsequently organized jury systems, though some of them, notably the Kingdom of Saxony, preferred to organize aldermanic tribunals—that is to say, a blending of jurists and citizens without professional knowledge—to determine the fact of guilt. In the scientific world the subject has long been discussed, but mainly in favor of the jury system, which, by a large majority, secured the approval of the assembly of jurists in Germany in 1861. But the battle has since continued, and now opinion is more hostile to that institution, and it may be said that with the exception of a small number of members of the bar the majority of practitioners and of representatives of the science of penal law reject the jury system. On the other hand, the system of lay tribunals (Schöffengerichte) has grown in favor.

It is not merely a question of patching up the jury system or introducing reforms in its administration, but Mr. Junghanns maintains that it ought to be simply and purely abolished. In its place we should not establish tribunals of jurists, with all their manifest defects; we should establish lay tribunals (Schöffengerichte), whose value has been proved whenever they have been established, and which combine the advantages of the temporary magistracy of jurors and the permanent tenure of judges, without presenting the disadvantages of the jury system. In these tribunals, presided over by a professional judge, the other members of the bench are taken from the people. They pronounce together upon the admission of evidence and render together judgment upon the guilt of the prisoner, and determine the sentence. But these aldermanic tribunals should replace the courts of first instance, which are marked by a deplorable and unreasonable lack of harmony. Likewise, the duty of serving in these courts composed of judges and citizens should be extended and equitably distributed. These courts offer the surest guaranty of a good administration of justice.

AN HUNGARIAN VIEW.

Hungary was represented in the discussion by Mr. F. de Bernolák, secretary of the tribunal of Budapest. The defects of the jury system he found not in the essence of the institution, but rather in its

organization. The jury should be freed from its purely political character, as an expression of popular liberty, and organized to better fulfill the ends of justice. The establishment of facts is a difficult matter and requires a developed judgment and intellectual power. This should be confided to a professional tribunal. On the other hand, a professional judge is rarely moved by the presence of the individual, whom he regards as simply one of a certain number summoned daily before him. It is by means of a judgment rendered by free citizens that it is possible to find protection against the rigidity of the laws. And, therefore, the question of guilt should come within the province reserved for the jury.

As to the fixing of the penalty, this important function should be shared by the court and jury.

THE JURY IN SWITZERLAND.

Dr. Eugene Borel, former attorney-general and professor of the faculty of law, Neuchâtel, Switzerland, described the operation of the jury system in the twenty-five cantons and semicantons of Switzerland, each of which has its own judicial organization and penal procedure. The jury system was established in Geneva at the end of the eighteenth century under the influence of the French revolution, and made its way among eight or ten cantons. A reaction limited its power and caused its suppression in some cantons without struggle and without even, as one jurist has remarked in the canton of Tessin, a funeral oration. Yet, in the cantons which still possess it, the people are much attached to the institution.

A criticism very often made of the jury system is that the juror does not sufficiently understand his task. With this as with everything else, the better the man the better the result. Experience is an important element. The new juror encounters difficulties which are brushed away by the experienced man. The reduction of the jury list tends to improve the jury by calling most frequently to service those who have acquired such experience. In the canton of Neuchâtel in 1893 the number on the jury list was reduced by one half. The proposition has been made in other countries that every one who has the right to vote shall be eligible as a juror. If there is any country in which democracy has been pushed to its most extreme consequences it is in the cantons of Switzerland, where everything, so to speak, is done by the people. Yet the revision at Neuchâtel just spoken of shows that the necessity has been recognized of reducing rather than of augmenting the number of jurors.

At Neuchâtel the jury list is prepared by a commission composed of the judge of the peace and his assessors, the deputies, and the may-

ors. That commission has existed for thirty years, and its work has always been ratified by the electors.

To improve the procedure before the jury, Mr Borel advocated the suppression of the reading of the indictment (acte d'accusation). This official document prepared in advance from facts obtained by the magistrate (juge d'instruction) often influences and dominates the jury and prejudices the case against the defendant.

The work of the jury is improved by making clear the problem which it is called upon to solve. Very often imperfect verdicts are the result of a lack of understanding, for which the jury is not responsible. In many cases it is the fault of the procedure.

Again, according to the English conception, the jury is simply to judge of the question of fact; but it is almost impossible to separate, in the mind of the jury, the question of guilt from the question of penalty. The real question to submit to the jury is whether the accused is punishable and in what measure.

In the canton of Tessin, where the jury was evidently a failure, it has been replaced by a semilaical court (L'échevinat: Schöffengericht). In the correctional court, as in trial courts, penal affairs are judged by a tribunal composed of judges and of jurés assesseurs chosen from the people, and this court pronounces a single judgment relating to the fact, the law, and the penalty. This reform has produced good results in that canton.

In Geneva, about fifteen years ago, as the result of a verdict which shocked public opinion, an innovation was introduced. The jury continues its functions, as formerly, of rendering the verdict, but the president of the court attends its deliberations with advisory powers. After the verdict is rendered the jury and tribunal retire again to discuss and determine the sentence to be pronounced in case of condemnation. This experiment at Geneva is particularly interesting. The fears of those who felt that the special rôle of the jury might entirely disappear in its combination with the court have been dispelled. The jury is still the representative of popular justice, but it is recognized that the presence of the judge renders the discussion calmer and more orderly, and, through the explanations he gives, prevents many errors and misunderstandings which formerly occurred.

After discussion in the first section it was decided not to adopt resolutions presenting any schemes of reforms but in view of the different laws and practices of different countries to confine the action of the congress to calling the attention of the various Governments represented to the body of information collected in these reports. A resolution of Mr. Borel to this end with slight amendments was adopted in the first section and confirmed in the general assembly.

THE JURY SYSTEM IN THE UNITED STATES.

The paper of Mr. Choate was an abridgement of an address given by him before the American Bar Association in 1898, in which he declared that he believed the jury system "to be the best method yet devised for the determination of disputed questions of fact in the administration of justice."

Mr. Choate said:

The jury system is so fixed as an essential part of our political institutions; it has proved itself to be such an invaluable security for the enjoyment of life, liberty, and property for so many centuries; it is so justly appreciated as the best and perhaps the only known means of admitting the people to a share, and maintaining their wholesome interest, in the administration of justice; it is such an indispensable factor in educating them in their personal and civil rights; it affords such a school and training in the law to the profession itself; and is so embedded in our constitution, which declares that it shall remain forever inviolate, requiring a convention or an amendment to alter it, that there can be no substantial ground for fear that any of us will live to see the people consent to give it up.

For the trial of persons charged with crimes, I do not believe that any material alteration of its character will ever be thought of. It is so much better that ten guilty men should escape than that one innocent man should suffer. In truth, in these days of multiplied statutory crimes and misdemeanors, a large majority of guilty men do escape by not being found out, by not being accused, by not being brought to trial after indictment, and largely, too, by setting aside the verdict by court of appeals, so that our established public policy seems to lean against any harsh or rigid arbitrary application of the criminal laws.

But accepting, as we must, the rule that the defendant's guilt must be established beyond all reasonable doubt before he can be convicted, it is hard to see how, as long as three, or two, or one honest man on the jury has a reasonable doubt, the prisoner can justly be deprived of the benefit of it without destroying our cardinal rule. But the insuperable answer to any change, so far as criminal trials are concerned, is the question what substitute will you provide, and none has ever been suggested that would command the approval of lawyers or of laymen.

Referring to charges made against the jury system, Mr. Choate said that the common estimate of the extent of corruption and bribery of individual jurors is in his opinion greatly exaggerated. A comparatively small number of jury trials end in disagreement; there is therefore no reason why the rule requiring unanimity should be abandoned. The great objection to dispensing with the rule of unanimity and requiring the decision of the majority or of two-thirds or three-fourths of the jury to control is the certain danger of hasty and therefore of unjust or extravagant verdicts.

Mr. Choate recognized the existence of evident faults in the jury system. To strengthen it we must have better jurors, better judges, and better advocates. "That the general grade of jurors, especially in our great cities, can be raised to the ideal standard there can be no doubt, and generally the existing statutes are ample."

"Given competent jurors, able judges, and honest, fearless, and learned advocates, and trial by jury, which I am sure the people of America are to maintain, will still be the best safeguard of their lives, their liberty, and their property.

CONCLUSIONS.

Inasmuch as it does not belong to the International Prison Congress to pass judgment upon the institution of the jury, and it has not been asked to do so, and as this institution is closely bound up with the political, judicial, and social organization of each state and has no international character; since the practical bearing of the question presented to the Congress consists essentially in gathering and publishing the experiences of countries where the jury system exists; and since this result has been obtained in large measure, thanks to numerous and interesting reports and to the distinguished reviewer; since these reports embody useful indication for the governments which judge it wise to direct their attention to the question, and since the practical value of the result would not be increased by official resolutions to which diversity of laws and political and social conceptions would offer insurmountable obstacles, the Congress, fully recognizing the devoted labors of those who have written on this question, refrains from passing any resolution upon the subject.

It is the sense of this congress that the laws of different countries should, to the greatest possible degree, admit the direct participation of citizens in a judgment of penal affairs.

SECOND SECTION.

PRISON ADMINISTRATION.

President: Doctor von Engelberg, Mannheim, Baden, Germany.

Vice-presidents: Messrs. Engelen, Granier, Hürbin, H. Schauer, Laguesse, Milligan, Boetticher, Baldwin, Borowitinoff, Vidal, von Mayer, Dr. A. Schober, Cretin, Chauvin.

Secretary: Mr. François de Finkey.

Associate secretaries: Messrs. Dr. Ernst Friedmann and Dr. Ervin Doroghi.

THE MORAL CLASSIFICATION OF PRISONERS.

Question 1.—What are the best means of securing the moral classification of prisoners, and what are the different consequences which should attach to such classification?

Of the eleven reports on this subject four were presented from France, one from Belgium, one from Holland, two from Switzerland, one from Italy, one from Hungary, and one from the United States.

Mr. Leon Barthès, doctor of law, and superintendent of the prisons of Fresnes, France, regarded the question of the moral classification of prisoners as one of the greatest importance. In France it has been the subject of much study. The maisons centrales were built about 1801. In these vast establishments 20,000 offenders were imprisoned without any care as to their antecedents or as to their moral relations. Order was maintained by an inflexible and necessary discipline sufficiently strong to annihilate every sentiment of revolt by weakening the body and the soul. That was the idea of this Napoleonic creation. The saddest consequences resulted from such a promiscuous conglomeration of prisoners of different moral grades. As against this promiscuous method numerous systems of separation were proposed—separation by categories, and later schemes for individual separation.

Mr. Barthès mentioned three penitentiary systems with different kinds of penitentiary establishments—*maisons d'arrêt*, *maisons de répression*, *maisons pénitentiaires*. In each one of these establishments the prisoners were divided into three departments: First, for those on a period of prison probation, embracing those whose character was little known; second, quarters for those who had established

in prison some record for good conduct; third, quarters for recidivists undergoing a regimen of exceptional severity. This system has been justly subject to many criticisms and its weaknesses pointed out many times.

Classification had also been based on the number of convictions. That is to say, first, a prison for first offenders for those who had incurred no previous sentence; and, second, for those who had undergone several sentences. This double distinction seems very simple, but is full of difficulties. Further attempts at classification have been made in France without success. Mr. Barthès held that the evil consequences of promiscuous association could be averted not by classification into categories, but through the progressive application of the cellular or separate system. To protect the first-time prisoner from the society of habitual criminals is a duty of public justice. Classification by categories reduces the evil; individual imprisonment suppresses it altogether.

The superiority of the separate system as a basis of classification was also maintained by Mr. Jules Veillier, director of the separate department of the prison at Fresnes. He regarded that system as best at least for those sentenced to short periods of imprisonment, and within the limits of the French law, under which isolation is obligatory for sentences of a year or less and optional for the prisoner whose penalty is over a year.

But while waiting for the complete realization of the cellular regimen he thinks it is desirable to ameliorate the evils of the congregate system.

In prisons for short sentences he would classify as follows:

(*a*) Minor offenses (contraventions) misdemeanors.

(*b*) Offenses not implying real perversity.

(*c*) Offenses implying real perversity.

(*d*) Political offenses.

(*e*) Whatever may be the offense, dangerous recidivists should form a category by themselves, submitted to individual treatment.

In prisons for long sentences he would have the following categories:

(*a*) The worst prisoners to be submitted to individual treatment.

(*b*) The better prisoners to be submitted to the Auburn system in special quarters.

(*c*) The indifferent or apathetic to be submitted also to the Auburn system in the different workshops of the prison.

As any classification involves fatal errors provisions should be made which will permit the passage of the prisoner from one class to another after a period of trial.

Mr. J. P. Vincensini, director of the Maisons Centrales at Montpelier, also an advocate of the separate system, recognized the need

of classification in congregate establishments. He proposed a system resembling that of Mr. Veillier: (1) A department for the good; (2) a department for the bad; (3) a department for the rest of the population.

Mr. Cuche, professor of the faculty of law at Grenoble, France, favored also the cellular system, but, in the case of those under the congregate system, recommended at the beginning of the imprisonment classification by age and by antecedents; secondly, later, another classification separating the worst prisoners. The treatment to which these different categories of prisoners are to be subjected should vary in the different categories. He did not indicate any detailed form of treatment.

Mr. Laguesse, director of the maison centrale at Poissy, France, suggests a moral classification, based on the age and intellectual ability of offenders and on their offense and its causes. In countries where industrial and agricultural occupations are maintained there should be a separation between the urban and rural population in prison. He suggested also separation in different establishments, except in small prisons, where different categories could be formed in the same institution.

Dr. D. O. Engelen, president of the tribunal at Zutphen, Holland, favored a progressive system in the application of the penalty, and recognized the value of the Elmira system and of other systems of marking and grading. He also favored individual treatment and recommended the separation and treatment in a class by themselves of those who offer hopes of improvement.

Mr. A. Leboucq, director of the central prison at Gand, like his French colleagues, is committed to the cellular system. He recognized, however, the need of classification in congregate prisons, and suggested that it be based—

(1) On conduct in prison. It should not be limited to the rules of discipline. It should extend to all exterior manifestations of character.

(2) On work.

(3) On moral aptitudes and tendencies.

(4) On order and cleanliness.

He proposed also a marking system based—

(1) On conduct before imprisonment and the number of sentences or previous commitments.

(2) Based on the circumstance of the offense.

He would also apply the marking system to a classification already mentioned to be made in prison. The moral classification would then fall finally into three degrees—the best, the doubtful, and the bad. Special favors and attenuations of the penalty should be acorded to the best.

Mr. Alexander Kovács, of the royal penitentiary at Vách, laid stress upon the importance of having officers and prison guards of good influence and character and well instructed in their work.

Little good result was to be expected without proper moral as well as physical and intellectual qualifications.

He proposed also to separate all criminals who have not reached their twentieth year (and they constitute 10 to 20 per cent of the totality of prisoners) and commit them to a special establishment. They should receive a special education. They should be occupied exclusively with agricultural labors in the open air; for, apart from the corrective effect which nature may exercise upon the mental and moral character of young offenders, they have need, above everything else, of pure air. Besides, if we are not capable of regenerating their souls that is no reason why we should enfeeble their bodies.

The second class should be composed of incorrigible prisoners and those wholly perverted, whose character is shown by their conduct during detention. They form from 10 to 12 per cent of the total number of prisoners. They should be isolated, have reduced privileges, and be compelled to do hard work.

He suggested that the figures I, II, and III should be sewed upon the garments of prisoners to indicate the classes to which they belong. The figures indicating good, better, best, in inversed order of the figures.

Mr. Béla Atzél, doctor of laws and political science, advocate, counsellor at the criminal court of Gyulafehérvár, who had charge of the penitentiary of Nagy Enyed in the years 1887–1889, had obtained good results from establishing a graded system based on work, studies, and good conduct. Prisoners on entering were divided into three groups, in which there was opportunity for advancement or retrogression. The different grades were marked by different clothing. This was necessary for the officers and guards as well as for the prisoners, for it showed to what class they belonged and to what privileges they were entitled. Mr. Atzél gave an outline of his system of grading and of the privileges accorded or withheld.

Professor Ottolenghi, professor of medicine of the Royal University of Rome, and director of the court of scientific police of the ministry of the interior, pointed out that the penal regulations of Italy established, though empirically, a moral classification. Prisoners are sent first into ordinary establishments to undergo their sentence. Those who are condemned to perpetual detention with hard labor, and to seclusion, are kept night and day under the cellular system for a certain period. Prisoners of another category are only confined in their cells at night. Prisoners of this last category are, according to their conduct, divided into three classes, a probation class, an ordinary class, and a merit class. If the conduct of the

prisoner is very satisfactory he may be promoted from one class to another, and obtain certain special recompenses, and finally may be transferred to an intermediate establishment, a sort of agrico-industrial colony. When, on the contrary, the conduct of the prisoner gives ground for complaint, he may be held in the class to which he belongs beyond the ordinary term, or may be degraded to a lower class, or may be committed to an establishment for such cases.

Professor Ottolenghi does not regard this system as successful, first, because the kind of sentence imposed and the conduct shown by breaches of discipline are not sufficient to reveal the moral character of the prisoner; second, because the same rules and regulations are applied to individuals very different in character, although under the same condemnation, and, third, owing to the evil effect of congregate life in prison, neither the penalty imposed by the law nor the application of different prison regulations, even with the most perfectly graduated system, can secure an exact moral classification of prisoners. This classification should be based upon scientific criteria, and upon the application of a rational method to each individual and not to a single type of prisoner, as if they were all made in the same mold. Physical and psychological conditions should be taken into account. To promote this, most minute information should be secured bearing upon the past life of the prisoner and the causes which led to the commission of the offense. It is good during the first period of detention to exercise a disguised surveillance while giving prisoners a certain liberty of action and without recourse to ordinary punishment. Character is revealed under such conditions. A selection of the worst should be made, of the most dangerous, who should be isolated once for all.

Another selection should be made of those who are subject to certain mental affections which remain concealed during the trial and are only revealed after imprisonment. Such selections can only be made under continued medical surveillance. Every penal establishment should have a doctor who knows well not only psychiatry, but criminal anthropology. The selection of those afflicted with cerebral derangements can not be well made if doctors make only occasional visits; there should be daily inspection by the doctor of the establishment. Every penal establishment should have a special section reserved for the insane, or for those whom there is reason to believe are such.

After having separated the most dangerous criminals and the insane, another group should be formed of the less dangerous—those who have been led into crime less by perversity than by environment. It is painful to see those who have an almost normal moral sense drawn into crime for the first time condemned to associate with habitual criminals submitted to the same treatment and forced to undergo

this moral contagion. In this way the prison instead of making them better only corrupts them through contagion. Thus the simple accident which has brought a man into crime becomes the cause very often of moral degradation.

After having taken out dangerous prisoners—the insane, the mentally diseased—and separated the best prisoners from the rest, those who remain will form a group less heterogeneous. Here the more corrigible may be distinguished from the others by their zeal in work, their conduct, their intelligence, their behavior, according to criteria adopted in the best institutions, as, for example, the Elmira Reformatory.

Doctor Curti, director of the penitentiary at Regensdorf, near Zurich, in a brief report suggested a system of classification, rational and progressive, to reach an exact moral classification of prisoners. In the first stage of the penalty he advocated isolation. The prisoner should be left to himself, to the repentance and remorse which are best promoted by isolation. The director and chaplain of the prison should, during this period, seek to exercise a corrective influence. Good reading should be permitted, and also correspondence between him and his relatives under proper control. For young prisoners schools are profitable. For all, young and old, attendance at public worship should be obligatory. Lectures may also be given upon national and universal history, geography, etc. The duration of the first stage of the penalty should be sufficiently long to offer some ground for confidence that a moral improvement—real, sincere, and lasting—has taken place. After that, isolation may be limited to the night, while the prisoner works during the day in company with others, at some occupation designed to develop his intelligence, and by which he may gain his living on his release. Various privileges may be extended to this class. They may be permitted to decorate their cells a little by photographs and flowers, and be permitted to have a song bird.

In the third class, privileges are still further extended. The fourth class is made up of those who are placed on parole.

On this question the United States was represented in the reports by Hon. Z. R. Brockway, formerly superintendent of the Elmira Reformatory.

ABSTRACT OF PAPER BY HON. Z. R. BROCKWAY.

Mr. Brockway treated the question not from the side of transcendent morality and theoretical justice, but from the practical aspect of public protection and the adaptation of the prisoner to society.

There is to be found a simpler and more workable standard by which to determine the social-moral state of prisoners, hence their fitness for any class and change of class, also their fitness for conditional or complete release from custody. It is the test of their present or

prospective importance at the time as political factors—their economic use and value. It is presupposed that we deal with real criminals. The courts with wise discretion will have otherwise disposed of insane, half insane, and imbecile offenders, consigning them to other institutions for care and cure or necessary supervision; the merely accidental criminal placed on probation, paroled, or a while secluded in some common jail; those deformed, diseased, the hopelessly dependent, colonized or almshoused for reclusion and support. The purpose of imprisonment and of treatment is to prepare such for industry, to train and transfer them from economic worthlessness to worthfulness. This aim and process involves a change of character; it develops virtues, incidentally, which when sought directly and by usual exhortation, are difficult and impossible to produce. Assuming now this economic attitude, the means best suited to secure a moral classification of prisoners will readily appear.

ASSOCIATION.

It should be noted that classification of human beings presumes somewhat association, a principle that equally applies to human beings incarcerated for crime. Not isolation of each individual, but gathering into groups on a basis of perceived likeness in or unlikeness for specific ends, rather than the basis of individual differences in a general similarity. The latter principle, if accompanied with separate cellular confinement, subverts true classification and supplies a condition of imprisonment which contravenes the primal law of civic circumstance, obstructs development of citizenhood. Separate confinement seems only suitable for the incorrigible or temporarily for rest and discipline. Separation of different categories of prisoners into separate institutions, as males from females, felons from misdemeanants, adults from children—the crude system so generally adopted—is convenient and to some extent is serviceable, but division of prisoners in any given prison into culture groups need not contemplate a complete separation of group from group, for, if possible, it is undesirable and quite impracticable as prisons are now conducted and arranged. Also free association—unregulated communication—of groups or members of a group, is inconsistent with our aim in classifying, in that it denies the established lines of difference, retards the group development, and tends to level up and down until all distinctions become obliterated. Both individual separation and free association are incompatible with good classification intended as an aid to reformations. But there is a proper mean of intercommunication which is most desirable and, as demonstrated by past experience, is attainable. Such a grouping of prisoners with limited and strictly regulated communication facilitates disciplinary training; promotes manual, technical, and scholastical education; contributes to manliness and morality; cultivates habitual, therefore instinctive, quick, and accurate self-adjustment to orderly civic behavior.

PRELIMINARY PROCEDURE.

Each prisoner on his admission to prison for his reformation will be immediately examined to discover the reasons that have placed him out of alignment with the world of orderly, industrious inhab-

itants. Intelligently discovered, such reasons will practically determine what shall be his initial classification; will, in connection with his discovered progress under culture process, suggest from time to time useful changes of classification; and, finally, will make known the prisoner's qualifications for release and rehabilitation.

Scientific physiological examination will reveal any possible need of physical training in order to improve organic functioning to the end that effort once painful or reluctant will become painless or pleasurable; it will reveal fitness or unfitness for vocations for which the prison should be prepared; it will suggest the group of the physical-culture class to which the prisoner properly belongs, and when he shall graduate from that class, and will naturally, indeed inevitably, lead on to psycho-physical investigation, making full demand on the science of pscho-physics for remedial prescription and direct mental training. The rational subjective reformative process is always a dual process, and reciprocal as between mind and body. Scientific physical culture and skillfully directed mental impressions when conjoined and brought to bear are irresistible for changing molecular conditions. New vital-current channels may be formed and reformed until habits, tastes, and capabilities are developed into accord with the orderly life of the times and community. Such a diagnosis or examination of every prisoner is an essential prerequisite of any system of moral classification of prisoners for the purpose intended.

RECORDS AND CONTROL.

Classification of prisoners for moral ends is so closely correlated with prison discipline that control should be mentioned among the means of securing it. Minute and comprehensive records are essential to complete control. Such records as they were kept at the Elmira Reformatory in the period of its greatest stress revealed at a glance the varied moods and movements of each prisoner at any moment and throughout his whole career; and, together with records of all the current affairs, occupied the time that could be devoted to that duty of more than thirty clerks, mostly prisoners, but under direction and close supervision of civilians. This is the best-known example of perfected prison records. But, more than the best records is required for effective discipline and classification. Very vitalized direction of methods and procedure is necessary. This is a requirement that demands and largely depends upon the dominating personality of the head of each penal establishment. The warden and governor, by his personality, gives tone and quality to the institutional public sentiment, which always is a most potent moral influence. From this source will emanate whatever of enthusiasm and administrative thoroughness, earnestness, and effort at any time exists.

MEANS AND CONSEQUENCES—MARKING SYSTEM.

An immediate item of means of securing good classification of prisoners intended for social and moral ends through economic education and training is a marking system expressed in monetary terms. Merit and demerit marks noted as pounds and pence resolve each prisoner's life and progress into economic elements and terms he easily comprehends—terms by which, when he regains his freedom, he will measure

himself and be measured by others. It also supplies a convenient and sufficiently accurate standard measure for use by the prison management in estimating prisoners.

The marking system operates, after the prisoner's first assignment, naturally and almost automatically to distribute, redistribute, retard or advance in the grades or classes, according to the truest test of progress and of fitness for free collective residence. At the same time it makes effective the powerful motive of the indeterminate or conditional sentence system by securing the prisoner's cooperation, when that is possible, in efforts for his advancement. Such a marking system widely applied for such a purpose will produce three grades, sometimes named moral grades, within the prison, analogous to higher, lower, and middle classes of a free community; will withdraw and send to reclusion some unassimilable prisoners of lowest grade, and will create a "star grade" (as known in England), composed of selected prisoners of the highest grade, who, as monitors, teachers, and military subalterns, may render valuable service. The classified population of a reformatory prison community should resemble the natural and actual classifications which exist in free society, a product of current activities and economics.

The prison is a specialized community of prospective free dwellers, temporarily segregated because of infirmities and placed under treatment for their care and restoration. It may be considered as a social mechanism and instrument for socializing the antisocial by their practice of behavior that conditions good citizenship to be practiced under compulsion, if need be; under firm grasp gradually relaxed as culture proceeds; practiced under scientific direction until the social habitude shall have replaced the antisocial, been duly tested, and found confirmed.

Not only should the standard of behavior required fairly represent good citizenship, but also the means and methods should correspond to the agencies and influences abroad in the free community, and particularly where the released prisoner will or should abide.

GRADE DISTINCTIONS AND EFFECTS.

Mindful of common social distinctions and referring to my own experience in classifying and maintaining the classification more than twenty years with a prison population, approximately 1,500, three grades were distinguished from each other by means of clothing of different color, cut, and quality; differences of comfort, conveniences, and furnishings of their respective grade quarters; differing dietaries as relates to variety, cookery, tableware, and service; by common or select situation and seats in the auditorium on public occasions; restricted or freer privileges of visits and correspondence with relatives and approved friends; diminished or increased allowance of conversation among themselves, and more or less of opportunity to earn and expend, all made contributory to the rate of progress toward conditional and absolute release.

The differentiated prison community now became a community of castes with attendant justifiable pride and prejudice of the enlightened responsive class; and on the part of the ignorant and irresponsive prisoners, together with their feebler ambition, some evidences of

depression, indifference, and occasional antagonism appeared. But, contrary to general conditions in a free community, the lower class was not left to propagate ignorance and error, but were plied with special incitements to action and efforts for advancement to the extent, even, with some individuals of the lowest class, of use of mental or physical shock. Some friction occurred between the members of the lower and higher grades, a healthful if not peaceful indication fully compensated by increase of mutuality among the several members of the same grade. This mutuality was particularly prominent in the highest grade. The effect upon the relations between the prisoners and authoritative government of the prison was an increase of general sensitiveness of relation, more intimacy, and, as a whole, the prison community was transformed from moping stolidity to intense activity. The social divisions are at once the means and product of each prisoner's performance in various spheres of activity, the chief and central of which is the industrial assignment and classification.

INDUSTRIAL CLASSIFICATION.

In the vocational assignment of prisoners the following-named considerations were constantly in use and found sufficient for satisfactory distribution:

(1) Knowledge of what industries are carried on at the place where the prisoner should live after his release; (2) occupations of living respectable relatives of the prisoner; or, of any person who might probably become interested in the prisoner and provide him with employment; (3) his natural adaptability for any calling.

The aim was and should be to begin at once, when the prisoner is received into prison custody, his preparation for the particular occupation which, from his previous local habitation, his connections, actual or possible, and his capabilities, he ought to have followed, and if faithfully followed might have saved him from crime and imprisonment. Neither the prisoner's unintelligent preference nor class vacancies and limitation of existing facilities for trade instruction should be allowed a dominating influence. The prison should supply facilities and instructions so as to meet the requirements of assignments made on the above-named trial basis; should not attempt to fit the prisoner's trade instruction to the convenience of the accidental present prison situation. At the Elmira prison, where this trade classification was carried to good degree of perfection, there were taught 33 trades and branches of the trade.

During the hours devoted to industrial training the appearance was presented of a great technological institute. This industrial and the to be mentioned educational classification of prisoners revealed a most interesting if rather discouraging fact—500 out of the 1,500 were found to be in need of special preparatory treatment before they could enter, promisingly, the regular trades classes. Discovery of this fact led to the formation of a large group of exceptionally defective prisoners possessing three variant grades of phases of defectiveness. Some were preeminently pathologically defective, and for that reason were incapable of sustained application and effort in any given direction; others were backward, mentally feeble, their mental processes normal, but slow; they were dullards; and still

others who were nearer normal as to bodily and mental conditions, but were notably deficient in power for any good self-centered normal control. Each of the subgroups of defectives was again divided into 25 small minor groups for the purpose of more exact adaptation of educational means. The total 500 composed a division devoted to manual training as the main feature of special treatment, but connected with special physical and stimulating mental exercises. No professional formula of manual training was prescribed or followed, but exercises were varied to meet, first, the needs of each of the three subdivisions, then the particular want of each of the 25 minor groups of the subdivisions. Some of the pupils were, aside from the tool processes and manipulative work of manual training, subjected to competitive mental arithmetic exercise and to gymnasium and field athletics, and a small class of the most intractable were fed with foods whose nutrient quality was scientifically readjusted.

The consequence of withdrawal and formation of this manual-training group may be summed up as follows: The regular classes throughout the prison were relieved of a troublesome incubus, and made, consequently, better progress; closer scrutiny was insured for the least tractable of the prison population, and special means for their improvement was brought to bear; a favorable field was thus provided for use of selected prisoners from the highest grades to serve as monitors and assistant instructors, by which use the best of the prisoners were arrayed and engaged, in cooperation with the prison governors, seeking improvement of the apparently worst of them; accomplishing thus, as by other items of classification, the most desirable and difficult problem of internal condition, goodness operating to overcome what is recognized as evil. There were abundant evidences of usefulness, of both trade and manual instruction, shown in remarkable individual restorations, to which the limits of this paper prevent particular reference.

THE SCHOOL OF LETTERS.

If, as we aver, wise pursuit of economic prosperity incidentally secures both mental development and desirable social moral relations, it is also true that these effects are multiplied and reproduced by combination with each other. Therefore direct effort for the intellectual and moral education of prisoners is not inconsistent with the purpose of their economic rehabilitation. The School of Letters at Elmira constitutes an educational classification equivalent to a great graded school organized for oral instruction, thus dispensing with the usual schoolbooks. There are three large divisions for lecture purposes and 24 smaller classes for common-school instruction. The whole range reaches from a special adaptation of kindergarten methods, through the ordinary grammar-school course to, and including, the studies usual in high school or academy. During school hours the prisoners are under educative control of a competent school director, aided by nonresident lecturers and by prisoner pupil teachers from among the prisoners, carefully trained by the director in a normal-school class.

The first and highest of the largest divisions contains about 300 men, subdivided in two classes, which meet severally and conjointly from time to time for lectures on history and literature, and for

instructions with discussions upon practical questions which involve ethical principles. The second—the intermediate of large divisions—numbers, say, 450 men, who pursue nature study by the lecture system, and for occasional arithmetic and language study, are subdivided into four classes. The third large division, 450 men, comprising the most illiterate of the prisoners, have lectures in elementary American history, and are for their common school and kindergarten work distributed in five of the other school classes. Moreover, as has been stated already, the defectives of the manual-training division are given extra hours of school work, and the most advanced and intelligent of the best and highest division, many of whom are employed as teachers, are classed for normal training, and, yet again, these are instructed in a special-hour class, when the principles of political economy engage their attention; besides, these upper-class men are privileged to read in the library, current good magazines and standard works helpful to their course of higher study by lectures.

The consequence of such a school classification of prisoners, as demonstrated by actual experiment, are briefly stated:

Since school progress, proven by monthly written examinations, is a condition of progress toward release from imprisonment, the school classification greatly stimulates mental activity and holds the mind of prisoners in healthfully directed occupation. So sure is this that at any time, ten minutes after going to their cells, 90 per cent or so of the two upper divisions, and many of the third division, will be found engaged in reading or study. The school thus supplies a connecting link in the chain of prescribed means intended to completely absorb the total energies of every prisoner throughout all the waking hours, and without relaxant interruption or harmful diversion.

Utilitarian considerations are so paramount in the whole school work, including the lecture courses, that the school renders important aid to the preparation of prisoners both in knowledge and impulsion for a rational and enjoyable free life. Industry is ennobled in their estimation; books become more attractive; new and improved civic notions are imparted; new tastes are formed; and the reason and judgment are much improved. Specially serviceable is the division of the school known as the "ethics class." While it is not intended to educate prisoners in the formulas of moral precepts, nor is it expected that any system of ethical principles may be so inculcated that mere theoretical knowledge of sound ethical principles shall always prevail over perverse propensities, yet it is certain that the discourse and debates held in this class on the ethical aspects of conduct in familiar practical human relations does create, what is new with most criminals, namely, an instinctive perception of moral difference and adds wisdom for self-direction. It is believed to be true, as Lord Bacon says, that "There is no man doeth a wrong for the wrong's sake but thereby he purchase profit, pleasure, or honor or the like;" and with Plato that: "The sole and only hope of respite and remedy for human ills is the power and wisdom derived which shall elevate virtue to mastery of vice." Undoubtedly the ethics division of the school classification makes a valuable contribution to such wisdom, and together with the entire institutional régime contributes to self-mastery. But for the latter important element of orderly behavior the military classification is especially serviceable.

THE MILITARY GROUPING.

All the able-bodied prisoners at Elmira were grouped in a military organization comprising a regiment numbering about 1,200 men, divided into 16 military companies, forming 4 battalions. The regimental officers are from the regular civilian employees, down to and including the rank of the company captains. The commander in chief is military instructor, ranking, in institutionary parlance, as colonel; the citizen detailed as assistant military instructor ranks as lieutenant-colonel; four of the citizen officers rank as major, and others of same rank as captains; the company officers below the rank of captain are selected from the best of the prisoners. Certain days or half days are devoted to military drill of companies, battalions, and regiment, and every day, except Sundays, at the hour of closing, regimental dress parade occurs with the usual accompaniments of bands of music, discharge of field piece for evening gun, and salute of national colors. All observation and testimony agree that military classification of prisoners, with the habitual mental attention and coordinate muscular responsiveness which military exercises exact, aids in acquiring desirable self-control and, demonstratively at Elmira, aids in good general prison discipline. It greatly adds to safety and efficiency when, as should be in a reformatory prison, the best of the prisoners are utilized for educational and industrial service. There is no good ground for the fear sometimes expressed that such military education of reformatory prisoners endangers the Republic by increasing thus the offensive organizing power of turbulent individuals and classes in the general community.

It was contrarily demonstrated during our late brief Spanish war that discharged prisoners from the reformatory, who were there made familiar with military matters, were very ready to enlist as Government troops, and it is known in time of peace that they often seek membership in standing military organizations fostered by the State for the public security. Among the thousands of such prisoners discharged from the reformatory there is no known instance of participation by any one of them in any organized riotous disturbance; and it is ascertained that the sentiments of prisoners approaching their release on parole, regarding labor strikes and opposition to police control, are substantially those of the law-abiding general population. Moreover, a reformatory prison system which is so inefficient as to discharge prisoners whose sentiments are hostile to the Government and the laws is itself at fault, either in slovenliness of reformative prison administration or in the laws and sentences under which such improper discharge may become unavoidable.

CONCLUSION.

Classification is a principle so universal in every intelligent investigation and conduct of affairs that it is surprising no better use of the principle has been made in prison systems and prison management.

Whatever of classification already exists in this connection is mainly very imperfect and quite inadequate for any prison treatment of convicts that shall afford to the public a reasonable amount of protection from crimes, even protection from crimes likely to be committed by prisoners discharged from prisons. It is difficult to con-

ceive of a rational reformative system of prison treatment in absence of analytical process and very thorough classification. In the prison to which I have already ventured to refer and now make final reference, so complete and workable was it there that by order from the general office there could be assembled, separately, in a few moments of time, any of the following classifications:

Either of the three social divisions and their two subdivisions; any one of the trades classes, the manual training class or any of the three general divisions, or any one of the twenty-five minor subdivisions; one or more of the three schools of letters, divisions or combinations of them, and any of the twenty-four classes or combinations of school classes; either of the military formations, battalions or companies comprising them and the regiment; the prisoners of the same religious bias or previous religious circumstances, such as Protestants, Catholics, Jews. With kaleidoscopic variency and facility, at will and according to programme, transformations of appearance could and did occur throughout the entire establishment. Seen at nighttime, when the prisoners were locked in their cells, it was a veritable prison, and only then; in the great auditorium, the whole population gathered for entertainment or popular address, it was a popular assembly of mixed classes of inhabitants; when the prisoners were distributed to lecture rooms for abstruse and technical discourse the appearance was that of an academy; on regular class evenings it was a graded common school; when, in the open courts and corridors, military movements were afoot, it was a garrisoned military fortress.

The foregoing outlined scheme of moral classification of prisoners, with mention of means and consequences, is not a product of mere theory unsupported by facts, nor of pure empiricism, but a combination of theory and experience.

It is presented for whatever it is worth as a contribution toward more scientific management of prisons, when in laws and prison practice neither the sentiment of retaliation or sentimental indulgence shall have place; when the purpose of reformation, for public protection, shall prevail, sought and wrought by scientific means and methods, among which the principle of classification must be rated to be of fundamental importance.

Dr. Béla de Balás, Budapest, the reviewer, gave an excellent résumé of the numerous reports presented. His conclusions embodied the opinion of the majority of the writers and of those which were adopted by the section and by the general assembly.

DISCUSSION.

The discussion was opened by Mr. Chauvin, chief of the first bureau of the ministry of the interior at Paris. He pointed out the importance of collecting by judicial authority various facts throwing light upon the character of the prisoner before his commitment to prison, facts which would facilitate the director, combined with observations made in prison, in making an early separation of the good and the bad.

Mr. Samuel J. Barrows, official delegate from the United States, said that a moral classification of prisoners, based upon their offenses before commitment to prison, is not satisfactory. The best of criminal

codes is arbitrary with reference to moral distinctions, and the penalities inflicted are as arbitrary as the definition of criminal acts. He would not say that the private life of prisoners before their commitment should be ignored; it is useful as throwing light upon their character. However, the principal object of the moral classification of prisoners is not that they may expiate their offenses, but that they may be prepared for a better life thereafter.

In order to establish a moral classification of prisoners, it is necessary to render possible in prison the existence and development of moral relations. Now, to establish moral relations among men it is absolutely necessary that they should live together. It has been maintained that the cellular system has solved the problem of classification because under this system prisoners are absolutely alone; but isolation is not classification. Separation avoids the problem; it does not solve it. Classification implies certain relations, physical, intellectual, social, or moral, with others.

Without doubt, there is reason for separating incorrigible prisoners from first offenders, the sane from the insane, men from women, children from adults. But a moral classification must not be arbitrary and it is not effected merely through physical distinctions. A moral classification presupposes that prisoners are susceptible to improvement, and in order that it may be effective occasions must be furnished which will develop moral activity, if the prisoner is to distinguish good from ill and choose the one and reject the other. A mere system of repression is not a moral system because it annihilates the will of the prisoner instead of developing it.

Experience has shown that a great number of persons are criminal because they lack physical, intellectual, social, and moral development. To show how moral classification might be effective and how relations of every sort might be established in prison, the speaker called attention to Mr. Brockway's report.

Finally, he pointed out that the great defect of the cellular system is that it does not permit the development of a public sentiment, which expresses the social will, the collective conscience of the best prisoners in a prison or reformatory. Such a public sentiment may be of great value. The class in ethics, which for a long time has existed at Elmira for the study of ethical questions, is not only a moral gymnasium where moral questions are discussed with a lively interest, but the moral judgments expressed by the class are sometimes, it seemed to the speaker, a little more elevated than the moral judgments which prevail outside.

Mr. Feuilloley, advocate-general of the court of cassation, Paris, agreed with previous speakers that the greatest care should be taken to establish a moral classification of prisoners. Between the sharp line of the two categories, those who are deemed corrigible and those

who are deemed incorrigible, there are a great number who are doubtful, but who may be reformed if they are removed from contact with dangerous recidivists. It is of great importance that all the information gained by the magistrate should be furnished to the prison administration.

This view was supported by Dr. Robert Ritter Holzknecht de Hort, counselor of the ministry of justice of Austria, who said that in his country the judge has minute investigation made concerning the previous life and character of the prisoner, but that after judgment all this valuable information, which may have served to show extenuating circumstances, disappears, and the prisoner goes to the penitentiary simply as a man who has received a fixed sentence. This information ought to be communicated to the penitentiary and furnish the basis of a classification.

Mr. Almquist, chief of the division of the general administration of prisons in Sweden, said that in Sweden the subject of classification is simplified. All persons receiving a sentence not exceeding four years are separated night and day under the cellular system; others, even those sentenced for life, are likewise separated during the first four years of imprisonment. There remains but a small number who are under the congregate system by day. This number is divided into two different establishments, one for those whom the court has deprived of civil rights and the other for those who still possess such rights. In Sweden we are of the opinion that it is impossible to judge justly concerning the moral character of prisoners; we have decided therefore to limit our classification to the provisions mentioned.

The sesolutions offered by the reviewer, Mr. Béla de Balás, were adopted.

RESOLUTIONS CONCERNING MORAL CLASSIFICATION.

I. The moral classification of prisoners is necessary.

II. Those who are recognized as the worst prisoners should be separated from the rest, either on arrival at the prison or in the course of their detention.

III. Young offenders who do not seem to be perverted should be placed in a special class. To this end it is indispensable that all the authorities who have had to deal with the prisoner should furnish the necessary data. In every case endeavor should be made to learn the character of the prisoner by observation during the execution of the sentence.

IV. The remaining prisoners should be formed into three categories:

(*a*) A class for those whose conduct is exemplary.

(*b*) A class for those whose conduct is good.

(*c*) A class for the doubtful.

Although the treatment should always tend to the improvement of each prisoner the means employed should differ according to the class. The discipline should be most severe for the worst prisoners. The efforts of prisoners' aid societies should be directed especially in behalf of the youngest and best prisoners to properly place them on their discharge.

WORK FOR PRISONERS AWAITING TRIAL.

Question 2.—Should accused persons awaiting trial be required to work if they have previously been condemned to imprisonment?

If work is not made obligatory for such accused persons, should not the reduction of their sentences of the time spent in prison while awaiting trial be conditional upon their voluntary acceptance of work during such preliminary imprisonment?

The commentary of the International Prison Commission affixed to this question is as follows:

It is very important to prevent idleness in prisons both in the interest of prisoners and of prison discipline. This principle is in part contradicted by the provisions of most of the codes as to the rights of untried persons, under which they can not be compelled to work even when they have been condemned to imprisonment before. This question has been introduced into the programme of the next congress to give jurists and prison officers an opportunity to express their opinions as to the justice of the prevailing view. In case the question be answered affirmatively, it would be desirable to know if the order established should be applied as an absolute principle, or if it should be subjected to restrictions such as, for instance, would limit its application to persons previously committed to imprisonment, or to those without resources, or to those having dependent families, etc. If exceptions to the principle, such as those mentioned above, are recognized as inadmissible, it would seem timely to consider whether it might not be expedient to create for all prisoners, or for certain classes of them, special incentives to encourage them to labor, and especially to make the reduction from their sentence of the time passed in prison while awaiting trial conditional on their voluntary acceptance of work during such preliminary imprisonment.

Nine reports were presented on this question, prepared by the following writers: Mr. Ernest Bertrand, director of the prison at Namur, Belgium; Mr. Michel Borowitinoff, professor agrégé of the Imperial University at St. Petersburg, and chief of the prison administration of Russia; Mr. Tancrède Canonico, senator, Italy; Mr. A. Cornez, associate director of the prison at St. Gilles-lez-Brussels, Belgium; Doctor Curti, director of the penitentiary at Regensdorf-Zürich, Switzerland; Doctor Gennat, director of penitentiary establishments at Hamburg, Germany; Count d'Haussonville, of the French Academy and the Academy of Moral and Political Science, France; Mr. Jules Veillier, director of the Cellular House of Correction at Fresnes, France; and Mr. J. P. Vincensini, director of the maison centrale at Montpellier.

Dr. François de Finkey, professor of the law school at Sárospatak, Hungary, was the reviewer (corapporteur). His careful and able analysis of the report furnishes the basis of our condensation.

Of the nine writers six, namely Messrs. d'Haussonville, Canonico, Bertrand, Veillier, Curti, and Cornez, gave a negative answer to the first part of the question, on the general ground that the prisoner before trial is deemed innocent, and therefore should not be compelled to work. Whether a person is a recidivist or not does not affect that principle. Senator Canonico well said imprisonment previous to trial is a sacrifice imposed upon the individual in the interest of the public, and this sacrifice should not be forced beyond a limit which is strictly necessary. Beyond the deprivation of liberty there should be no other restriction. On this ground it is right that the accused detained in a judicial prison should have, at his own expense, the food he desires and wear his ordinary clothes. It is on the same ground that in such prisons the accused should be isolated; for it is not well that a man who may be declared innocent should live in common with those who may be really criminals. The same in dealing with a recidivist. Since he has not been judged and recognized as guilty of a new offense he can not be treated as a criminal.

Another point to be considered is that the accused needs time for the preparation of his defense, and modern laws secure this for him. Doctor De Finkey called attention to the liberality of the Hungarian criminal code (sec. 153), in operation since the 1st of January, 1900, which permits the accused to remain under arrest in his own house with the consent of the prosecuting authorities, if the accused pays the expense of special surveillance and makes a deposit in advance to cover it.

In the opinion of the majority of the reporters the obligation to work could not be easily combined in practice with all these liberal measures, which are victories for individual liberty.

It should be noticed that the congress at St. Petersburg rejected the idea that accused persons should be obliged to work, holding that their work should be entirely voluntary, and that the moral and material advantages arising from work sufficiently recompense the person who voluntarily accepts it. It will be seen that the question presented to the Budapest congress was whether this principle should be maintained in reference to recidivists.

The minority of the reporters, namely, Messrs. Borowitinoff, Gennat, and Vincensini took the opposite view. They were not, however, agreed as to the limit and means of imposing labor. Mr. Vincensini would make such labor voluntary for first offenders, but compulsory for recidivists. Doctor Gennat believed in requiring all accused persons to work without any distinction. Mr. Borowitinoff maintained that the accused persons should not be left in idleness, but should devote

themselves to some work of their choice, which could be done in prison and which would not interfere with order and tranquillity. It is not necessary that this work should be remunerative. Mr. Borowitinoff thought that the study of a foreign language, the development of the prisoner's education, should be permitted.

Doctor De Finkey joined in opposing obligatory labor, even for recidivists awaiting trial.

Concerning the second paragraph of the question there was considerable division of opinion. The nine reporters were divided by the reviewer into three groups. The first, formed of Messrs. d'Haussonville, Canonico, Borowitinoff, and Curti, responded affirmatively; namely, that any reduction of their sentence based upon the time spent in prison while awaiting trial should depend upon the voluntary acceptance of work. The second group, composed of Messrs. Veillier, Vincensini, and Doctor Gennat, approved of allowing the time of imprisonment before trial to be applied on the sentence of all prisoners after condemnation without exception. The third group, composed of Messrs. Bertrand and Cornez disapproved of any such reduction.

The general reporter, Doctor De Finkey, thought it should be left to the judge to decide in each case as to whether the sentence should be reduced in proportion to the length of imprisonment before condemnation.

DISCUSSION.

Dr. Robert Ritter Holzknecht de Hort, of Vienna, said that the sole object of detention before trial is to secure the person of the accused; anything beyond that is not legal. Dr. Jules Fekete de Nagyivány shared the opinion of the minority. Work is not a recompense, nor is it a punishment; it is a moral and pecuniary measure. A wise director will always be able to tell what individuals awaiting trial should be put to work.

Doctor Reichardt, ministerial counselor at Karlsruhe, said that in all the prisons of the Grand Duchy of Baden, in spite of the absence of legal provisions obliging the accused to work, it is a fact that nearly all of them do work. Prison directors are instructed to offer work to accused persons and to induce them if possible to accept it, assuring them that they will be compensated in proportion to the work done.

Mr. Chauvin, chief of the first bureau of the ministry of the interior of France, said that accused persons may choose whether they will work or not; that the great majority accept such work and often ask for it before it has been offered. They receive for the product of their work a larger proportion than that which is accorded to condemned prisoners, and as they are at liberty, as condemned prisoners are not, to buy food at their expense, they are incited to

work as much as possible in order to improve their situation. Mr. Laguesse, director of the Maison Centrale at Poissy of France, said that a selection should be made in favor of accused persons who are not regular habitués of prison as opposed to the vagabonds and mendicants who are parasites on society. He was of the opinion that in certain cases the warrant of arrest should indicate that the previous life and conduct of the prisoner in society required that the accused should be put to work.

Mr. Simon van der Aa, director-general of prisons of Holland, said that in his country accused persons are free to accept or not the work offered. Inspired by the idea already quoted, that arrest before trial is a sacrifice made in the public interest, and that it should be made as light as possible, the condition of persons awaiting trial has been much improved in late years, giving them better and more comfortable cells and according to them more favors, such as allowing them to take exercise in the prison yard once a day, more frequently than condemned prisoners, permitting them to smoke there, and allowing them a free disposition of that which they gain by work. The accused prisoners work gladly of their own accord, not only to avoid the monotony of prison life, but that they may buy certain things at the canteen. It is not necessary to compel them to work, since they freely choose it.

The vote being taken on the first part of the question, the majority of the section declared against obliging accused prisoners to work while awaiting trial, even if they have served a previous term of imprisonment.

Mr A. Skousès, of Greece, pointed out that having adopted the vote thus recorded it would be contradictory to declare that a reduction from sentences of their time spent in prison while awaiting trial should be made conditional upon the voluntary acceptance of work by prisoners during such preliminary detention.

After discussion participated in by Mr. Cretin and Granier, a vote was passed providing that the question whether the condemned prisoner should receive the benefit of a reduction from his sentence proportionate to the time of his imprisonment awaiting trial should be left to the decision of the judge pronouncing sentence.

In the general assembly, however, Mr. Skousès renewed his objection, which was supported by Mr. Typaldo Bassia, of Athens, who observed that an allowance on the sentence for detention while awaiting trial is obligatory in Belgium, Italy, and Greece.

Mr. Charles Didion, director of the prison administration of Belgium, said that to substitute the arbitrary opinion of the judge based upon the report of some prison officer for the principle well established in Belgium of deducting from the sentence the time of imprisonment while awaiting trial would be dangerous.

Mr. Mollow, professor of the University of Sofia, pointed out, as did Mr. Typaldo-Bassia, another danger: To allow a prisoner to accept work on condition that the time of his sentence after condemnation should be reduced would be an invitation to an admission of his guilt.

The amendment of Mr. Skousés was finally adopted, rejecting the idea that the sentence should be shortened upon the voluntary acceptance of work during prison before trial. The conclusions as adopted were thus stated:

RESOLUTIONS AS TO WORK FOR PRISONERS AWAITING TRIAL.

Accused persons should not be compelled to work while awaiting trial, even in cases where they have previously served a sentence of imprisonment.

The reduction of the time of the sentence after conviction should not depend upon the voluntary acceptance of work while awaiting trial.

INDEMNITIES FOR ACCIDENTS TO PRISONERS.

Question 3.—Upon what principles, in what cases, and on what basis should indemnities be allowed to prisoners, or to their families in consequence of accidents arising in penal labor?

What special provisions in this respect should be admitted with reference to young offenders, whether in colonies or in reform schools, public or private?

In Europe laws have been passed in a number of countries regulating rewards and indemnities to free laborers who suffer from accidents while working, and defining the liabilities of employers. The question arises how far the same principles may be recognized in prison legislation and prison administration, and upon what principles indemnities should be awarded.

On this subject there were three reports from France, by Messrs. Barthès, doctor of law, and *contrôleur* of the prisons at Fresnes, Mr. E. Cheysson, member of the institute, formerly president of La Société générale des prisons, Mr. H. Pascaud, counselor at the court of Chambéry; two from Germany, by Dr. von Engelberg, director of the penitentiary at Mannheim, and Dr. Louis Fuld, a lawyer of Mayence; two from Switzerland, by Doctor Curti, director of the penitentiary at Regensdorf, Zürich, and Dr. Emile Zürcher, professor of law at the University of Zürich; one from Italy, by Mr. Guido Bortolotto, doctor of law at Rome, and one from the Netherlands, by Mr. A. D. Fockema Andreae, doctor of law at Leeuwarden. Mr. Ferdinand Baumgarten, of Budapest, Hungary, was the reviewer.

The reports on this subject presented an interesting and instructive

view of the attitude of different countries with reference to the rights of free workmen, the victims of accidents incurred during their daily labor. In Austria, France, Germany, Italy, the Netherlands, and in Spain the principle has been recognized and embodied in law, providing for insurance or indemnity for free workmen in case of accidents. These laws, however, have not been generally extended to prisoners. Several decisions of French courts have declared that the law is not applicable to prisoners in that country. Italy and the Netherlands have also excluded prisoners from its operation.

The German law of June 30, 1900, which took effect April 1, 1903, is, according to Mr. Baumgarten, the reviewer, the first special law as to the insurance of prisoners against accidents during their detention. The two German reporters differ somewhat in their judgment of that law.

Mr. Fuld is an eloquent advocate of the same. "Humanity and justice," he says, "should combine to apply the principle to the working prisoner. The spectacle of a man going out from prison where, under the direction of the State he has served his sentence, incapacitated to gain his livelihood is a painful sight and a striking injustice. It is inhuman to return a man to his family after the pretended correction of penal establishments who, because of injuries suffered during his imprisonment, is obliged to become a subject of charity. If the free laborer may obtain an indemnity in case of accident, the same right should be invoked in favor of the working prisoner who in prison shops is daily exposed to all the risks of organized labor." It is only in Germany that a definite solution has been reached on this question. The German courts having declared that the general law was not applicable to prisoners, the Reichstag, on February 10, 1897, invited the Government to present the draft of a law to "guarantee to the injured prisoner pecuniary aid whenever the accident occurred in the course of work which, if the workman had been free, would have entitled him to insurance."

Doctor Von Engelberg presented an interesting history of the humane and legal movement in Germany embodying this principle and an analysis of the features of the German law as extended to prisoners. He pointed out also some of the limitations and defects of the law which, from the standpoint of the director of a prison, experience had revealed. The law gives to the prisoner the right of indemnity, but he does not obtain it through a judicial procedure. It is awarded or denied by administrative authority, named by the ministry, and appeal from a decision is decided by other administrative authorities, named also by the ministry. Thus the prisoner can secure no judicial satisfaction. The law does not say clearly for what accidents the indemnity should be granted; acordingly as the

word " factory " is interpreted it is possible to exclude a large number of prisoners from the benefits of the law. Other defects were pointed out, which, however, are simply defects of detail.

It is interesting to note the general unanimity and even warmth with which the principle of the obligation of the State to indemnify the injured prisoner was accepted. Some of the reporters went even further and maintained that this right to indemnity should not be confined only to injuries suffered during work, but that the prisoner should be insured against anything which impaired his health and for which the State is responsible.

Mr. Barthès said " society should not inflict upon the prisoner a punishment in disproportion to the offense committed. When it condemns an individual to imprisonment it does not have thereby the right to kill him or even to enfeeble him; it uses work as a means of his moral improvement, but it refuses to consider the prisoner as a slave of the State and the machine as an instrument of mutilation. It declines to put a gulf between free labor and prison labor. No law would dare to declare that the prisoner may be mutilated at will; silence and indifference on the other question as to accidental mutilation are no longer possible; the question should be settled."

The consideration of this question marks a distinct ethical advance in modern civilization. Less than a century and a half ago, before the days of Beccaria, the possible infliction of torture was common. When torture was abandoned and the instruments which inflicted it were remanded to the museums, then followed a period of neglect and indifference. The prisoner was not tortured, but he was left in prison under physical conditions which impaired his health. Then came an awakening as to improved physical surroundings, largely stimulated by the labors of Howard and of Elizabeth Fry, and with it a new moral impulse as to the improvement of the prisoner. Work, at first used as a form of slavery, became afterwards a moral agency for the development of the prisoner, and now the obligation of the state to indemnify prisoners injured by prison labor grows out of the recognition of the rights which are due to the free laborer. The mere fact that the State takes the person out of society because he has violated the law does not absolve society from duties toward him and if society has any duty to fulfill it is to turn him out a better person physically, morally, and intellectually. In such a condition he is not only worth more to himself but worth more to society.

In addition to the reports presented, Mr. P. Grimanelli, director-general of the prison administration of France, presented further facts showing the state of this question in that country. It having been decided that the law of 1898 can not be applied to prison laborers a commission has been formed to suggest a solution of the question

and its labors have resulted in the preparation of a draft of a proposed law. The bill recognizes the right of prison labor to indemnity within special limitations. No indemnity is to be allowed if the accident is attributed to the gross fault of the victim. The incapacity to work must continue after liberation. The indemnity takes the form of allowance for subsistence based upon the partial or total incapacity of the victim. Indemnities are also proposed for the legal heirs of the prisoner in case of his death if they have need of a pension. If the prison work is entirely under State control it is the State which must pay the indemnity; if the prison labor is under the contract system it is the contractor who must pay. The magistrate who receives the declaration of the accident must refer the case after his investigation to the proper tribunal.

In the discussion which followed in the section the main question at issue was as to just how the indemnity should be accorded—whether by special law or simply under rules established by administrative authority.

Mr. Almquist, of Sweden, said that since about 1840 the present regulations of his country had allowed to an injured prisoner an annual pension in case of injury from accident. The law relating to the insurance of free workingmen against accidents in Sweden did not apply to prisoners, and their absolute right to indemnity was not conceded.

Messrs. Didion, Friedmann, and Skousès argued in favor of a special law recognizing the rights of the prisoner.

RESOLUTIONS AS TO INDEMNITIES FOR ACCIDENTS TO PRISONERS.

1. In case of accidents incurred during penal labor indemnity should be accorded to prisoners or to their heirs dependent upon them for subsistence, on condition that the incapacity continues after release.

2. In countries where the right to indemnity in favor of free labor exists a law relating to accidents under prison labor should regulate, within special limits, the right of prisoners to indemnity.

3. The right to indemnity is excluded if the accident is caused voluntarily, or through serious disobedience to rules, or through gross carelessness. The indemnity should be strictly confined to an allowance for subsistence, fixed within maximum and minimum limits, determined according to the gravity of the incapacity due to the accident.

4. Similar provisions, but made in a larger and more liberal sense, are to be taken with reference to indemnity due to young prisoners committed to colonies or to reform schools.

SPECIAL INSTITUTIONS FOR DEFECTIVES AND FOR INEBRIATES.

Question 4.—Is it necessary to create establishments of detention for persons of limited responsibility and for inveterate drunkards? If so, on what principles should such establishments be organized?

Ten reports were presented as follows: Two from France, by Messrs. Feuilloley, general advocate of the court of cassation, Paris, and Mr. J. P. Vincensini, director of the Maison Centrale at Montpellier; three from Hungary, by Mr. Ernst Friedmann, of Budapest, Dr. Ernst E. Moravcsik, professor at the University of Budapest, Dr. Jacques Salgó, physician in chief of the insane asylum at Budapest; one from Norway, by Dr. Paul Winge, of Christiana; one from Russia, by Mr. Jules Heyfitz, attaché to the ministry of justice, St. Petersburg; two from Switzerland, by Doctor Curti, director of the penitentiary at Regensdorf (Zurich), and by Dr. Aug. Forel formerly professor of psychiatry at the University of Zurich, and one from the United States, by T. D. Crothers, M. D., Hartford, Connecticut, secretary of the American Society for the Study of Alcohol and other Narcotics, etc. Prof. Ernst E. Moravcsik, of Budapest, was the reporter-general, and his able review of the reports was read in his absence by Doctor Salgó.

The important problems of individual and of social responsibility both came directly before the Congress in this question; individual responsibility in its legal as well as in its medical sense, and then the responsibility of society itself toward offenders of defective mental capacity.

The reports and discussions and the whole literature of the subject show that there exist numerous transitions and gradations between a sound and unsound mental state; between entire responsibility, as we measure it, and irresponsibility. There are individuals who show certain mental and organic irregularities, whether hereditary or otherwise. These irregularities are not such as would class them among the insane; but on the other hand it is not less true that they do not show the same power of thought, the same moral sentiments, the same liberty of action as those of sound mind, and that they show a force of resistance very much inferior to normal subjects. All these considerations moved nine out of the ten reporters to say that these cases require special juridical consideration, and that the provisions of penal codes actually in force are insufficient as to the matter of responsibility. "The number of experts in law and in medicine," says Doctor Moravcsik, "who think that this question of limited responsibility should be recognized in the codes increases every day." This idea is strongly represented by Mr. Feuilloley, of Paris, from the standpoint of the jurist. The alienists are practically unanimous concerning it.

The reviewer remarked that the theoretical discussion and the practical solution of questions relative to limited responsibility are a proof of the happy influence which the natural sciences exert upon justice in our age. They are the precursors of a more healthful, just, and rational conception, which takes into account not merely the determination of responsibility, but also the question of the character and application of the sentence. Justice, then, will appear not only as a means of repression and a safeguard for society, but as providing for the education, correction, and, if possible, the cure of individuals who have come in collision with social order, and also as seeking to prevent the criminal acts themselves.

Doctor Forel, in his report, says: "There is a whole gradation of anomalies or of lesions, partial or total, light or serious, acute or chronic, hereditary or acquired, organic or functional, of the organ of our mind—a gradation of infinite varieties—and there is no man, however strong he may be, who can permit himself, without being unjust or arbitrary, to bound them by precise and absolute limits and erect them into dogmas. The observation of persons competent and experienced in mental anomalies is alone capable of judging in each particular case, with the aid of an inductive scientific method based upon long scientific experience. But there is more. The notion of responsibility can only be relative to the power of the brain of the man to adapt himself adequately to social life. The more the individual is adaptable to the conditions of social life wherever he lives the more he is responsible; that is to say, relatively free, or the contrary. The traditional penal law starts from a false point of view—that of the absolute free will of man and the religious idea of expiation. The judge, also a man, poses as a divine instrument to force the criminal to expiate his crime, looking upon him as responsible in the absolute sense of the term. That is why the penalty is only a quantitative dose without taking into account the psychology of the prisoner, and this is how, while we think we have rendered justice, we have only applied unconsciously metaphysical dogmas, and have often made more innocent people suffer than guilty ones. It is only in the school of a sound psychology, both individual and social, that a penal law can be formed and adjusted to social exigency."

"Certainly it is necessary," continues Doctor Forel, "to create special establishments of detention for those of limited responsibility. Without any discernment justified psychologically, an artificial gap has been created between the insane asylum and the penitentiary, and yet every one knows that many of the prison population are insane or half insane. Is it not a shame for the twentieth century to condemn and send to the penitentiary a number more or less considerable of irresponsible wretches, victims of heredity, simply through judicial

errors, because we are not willing to allow time to be taken to examine their mental state or even because they are too dangerous and there is a lack of room for them in the ordinary asylums for the insane? These individuals are very often extremely dangerous and perverse, confirmed recidivists, incorrigible precisely because their brain is abnormal, sly, and deceitful, full of bad instincts. In the insane asylums they are often a trouble for the other patients, and in the prisons where their mental state is not understood they are a burden to the wardens. They brutalize and corrupt other prisoners less perverted because more normal."

"When," asks Doctor Forel, "will penal justice understand at last what we have been saying for so many years: That it is not by another dose of penalty or by attenuating circumstances, but by another method, a system adapted to its objects, that we should 'punish,' that is to say *treat* such individuals while better protecting society against them. When we take into account the condition of each one of them we find that many of these dangerous individuals may be once and for all placed in a state or condition where they will do no harm, while at the same time they should be humanely treated. They may even work in useful ways for the state, instead of victimizing through their lives normal members of society by the satisfaction of their perverted instincts. It is absolutely necessary that penal law should take account of these facts. Instead of indefinite theoretical discussion of this question, we should go to work and construct for these abnormal individuals special asylums, directed by an experienced psychopathologist."

Mr. Feuilloley pointed out that many individuals belong to an intermediate category between the normal and those absolutely irresponsible. Some of them are victims of alcohol or of unbalanced sexual or other impulses. All of them are not insane nor are they criminals, but they are dangerous beings from a social point of view. Society needs to restrain them, but to temper its action with justice and humanity. The principles should be embodied in the law. Offenders of limited responsibility should be detained in a special institution until it is clear that their release will not be dangerous to life or property. The release of inmates should not be ordered without renewed judicial decision, and then release should be only conditional. Special institutions should be founded for alcoholic, morphine, and ether maniacs.

Doctor Winge called attention to the question as it has taken form in Norway. The old Norwegian penal code of 1842 forbade the condemnation of children below 10 years of age (afterwards 14), also the insane and those who are in an unconscious state not due to their own fault. The new penal code of May 22, 1902, which went into effect January 1, 1905, abrogated these provisions (except that

which interdicted the penal prosecution of children under 14 years of age), and has substituted for it a provision concerning irresponsible persons, which interdicts, as before, the condemnation of the insane, while permitting the courts to liberate as irresponsible other persons whose mental faculties are judged abnormal. The courts have the power of mitigating the sentence when they find that the delinquents were not in normal condition as to mentality at the time of the offense, without, however, being wholly irresponsible. This provision does not apply to persons who commit a crime under the influence of intoxication for which they are responsible.

The penal code has further introduced new provisions, the object of which is to protect society against delinquents who, without being insane, are not in complete possession of their reason. If the court finds that a person should not be condemned owing to limited responsibility, but also fears that he may be dangerous to public security if released, it may issue a decree under which the administration may send him to some definite place of sojourn, or he may be committed to an insane asylum, a sanitarium, or a house of correction. It is left to administrative authority to revoke this measure when expert medical authority has shown that it is no longer necessary. The court, before giving a decree of that nature, must put to the jury the question: "Is the accused dangerous to public security by reason of his irresponsibility or of his limited responsibility?" This paragraph is the result of a compromise. The draft of the law as presented by the Government would have suppressed the interdiction as to the conviction of the insane and unconscious offenders and would have left the court liberty to determine the question of responsibility. The government bill raised, however, strong opposition. The alienists demanded the maintenance of the interdiction against convicting the insane and were supported also by jurists and criminologists.

One difficulty of the situation in Norway, which may also be found elsewhere, is that while the State possesses insane asylums to which persons may be committed under legal decree, other establishments will have to be created for persons of limited responsibility. An order for the detention of such a person in a definite place has no value unless the police see to its execution. The hope is that the State may establish a special institution with proper division of the sexes and an infirmary in each division.

Independently of this house of detention it is proposed that the Government should authorize sanitariums for offenders of both sexes who suffer from nervous or cerebral troubles without being insane. This should include a provision for inebriates.

Some of the specialists consider it necessary in the interest of society to place dangerous defectives under restraint as soon as their character has become known, and before they have come into conflict

with society. Incapable of living in entire independence they should be placed under surveillance and tutelage. But it must not be forgotton, said the reporter-general, Doctor Moravcsik, that the mental state which results in limited responsibility may be transient and temporary.

Among persons of limited responsibility a large number are occasional or habitual inebriates, and the proper provision to be made for such persons was included in the question submitted to the second section.

The same question approached from a different angle also came up in the third section in considering measures to be taken to combat alcoholism. Dr. T. D. Crothers, of Hartford, Connecticut, paid special attention to this class in his report. The reporter-general supported his argument by quotations from Doctor Crother's report, agreeing with him, that "the present methods of cure and prevention of the drunkard and of those of limited responsibility are not scientific, hygienic, economical, or rational.

Doctor Forel, of Switzerland, like Doctor Crothers in our own country, is a high authority on the treatment of alcoholism, and has written many treatises on various aspects of this subject. In his report he declared that there are curable inebriates, and that we must seek to cure them by the only remedy which can effect it, total abstinence from every form of alcoholic drink. For this purpose it is necessary to have institutions for corrigible drinkers. A detention of at least six months in such an asylum and membership in a total abstinence society on release from the intsitution, are essential conditions for permanent cure. But there are incurable drunkards, and it is inconvenient to have them in the same asylum with the curable. They should be put in an institution by themselves. Doctor Forel then devoted some space in his report to considering how such asylums for inebriates should be organized.

Doctor Moravcsik also spoke of the principles which should govern the administration of asylums established by the Government for confirmed drunkards. They should have agricultural work and other industrial work as much as possible in the open air. Their commitment to such institutions should not depend upon their consent. It is important to have a judicial commitment and to keep them until the desire for spirituous liquors has disappeared.

There was a general agreement among the doctors as to the need of baths, work, mental and moral invigoration, and proper recreations to effect the cure of inebriates.

DISCUSSION.

Dr. Henri Colin, of Paris, physician in chief of the asylum of Villejuif, well known as one of the most prominent alienists in Europe, addressed himself to that part of the question relating to

persons of limited responsibility. He regretted the use of that term, although the doctors must plead guilty to having introduced it. The two words are contradictory and the question as to the amount of penalty to be administered thus unfortunately comes up. The doctors do not wish to pronounce definitely upon the question of responsibility and the judges want to have some solid basis for acquittal or for condemnation. This comes from the metaphysical view which we have been in the habit of taking as to mental maladies. We have not been accustomed to consider insanity as an ordinary malady. For a number of years Doctor Colin has maintained that the criminal insane are in a great majority of cases the result of the juxtaposition of two states, insanity on one side and criminal tendencies on the other. A person under the hallucination of persecution without criminal tendencies does not kill, whatever may be the sufferings he endures, and a large number of persons mentally defective may be guarded with but little personal restraint. We must not forget that insane prisoners differ as much from other prisoners as insane persons in ordinary life differ from normal individuals, nor forget on the other hand that the criminal insane differ from ordinary insane as much as criminals differ from those who have not committed and have no desire to commit any crime. We shut them up because they are dangerous or antisocial, not because they are criminal. It is therefore necessary to establish for those afflicted with this form of malady special asylums, different from those ordinarily established.

We possess now two kinds of establishments to which these are committed—the prison and the asylum. It is often merely chance which controls their commitment to one or the other of these establishments, and they are not adapted to either. They are a source of disorder and violence in the asylums to which they are sent. Doctor Colin proposed to create for these infirm persons pavilions where they may be gathered in small numbers and be occupied with appropriate work, and where they may be held for a certain time to avoid continual oscillation between the prison and the asylum, as happens in many cases.

Doctor Colin announced that the consul-general of the Department of the Seine, under the leadership of its president, Dr. Paul Brousse, is occupied at present with this question. Following a report presented by Doctor Colin in 1899 to the council-general a new department is in process of construction as an annex to the asylum of Villejuif. The objects to be attained are the following:

1. To relieve the asylum of an element of trouble and disorder, and thus to give to the other inmates greater liberty.

2. To avoid revolts and escapes.

3. To organize methodical work so as to make it morally effective, and to regulate the production and wages so that the inmates, having

earned a reasonable sum, on their discharge may be able to create new resources for themselves.

The inmates are placed under a different administration although this is annexed to and forms a department of the asylum proper. The inmates are divided into pavilions limited to thirty-two for each. Each pavilion is divided again into two sections entirely separated from each other, containing sixteen inmates. Each section is provided with a certain number of shops, where work is methodically organized and where the inmates work in pairs. The surveillince both within and without is rendered easy by the arrangement of the premises. The pavilions are so disposed that the inmates of different pavilions can easily see without communicating with each other. Small pavilions are designed for those especially dangerous.

There are at present two different opinions in regard to these asylums. Some wish to annex them to prisons; this is the German system. Others prefer to attach them to insane asylums; this is the French system. On the other hand the local administration in Germany does not resemble the centralization of the French administration, and it is true that even in Germany it is far from the rule that these asylums are annexed to prisons, since the asylum for the criminal insane of Duren is annexed to the insane asylum of Cologne. It is impossible to lay down a fixed rule; the important thing is to have a special establishment.

Other objections raised to the system adopted in the department of the Seine relates to the work to be given to the inmates. Some favor agricultural labor; others industrial and mechanical. Doctor Colin expressed his preference for the latter; first, because it reduces the number of escapes, and secondly because in the Department of the Seine they have to deal with an industrial and not an agricultural population. In these matters no general rule could be laid down.

Mr. Henri Hayem spoke of the judicial difficulty in dealing with this question in France. When the French judges are confronted with an individual of limited responsibility, declared to be such by an expert alienist, they can choose one of two courses. They may acquit the person. They would often do this if they were sure that the administration of public charity would commit these individuals to the treatment they need. But they know that there are no establishments for individuals of limited responsibility. To acquit the person in that case is to restore liberty to an individual dangerous to society. The French magistrates, therefore, do not adopt that solution. The other solution is to condemn the person whose responsibility is limited as if he were fully responsible. But this solution violently disturbs the sense of justice. It is known, besides, that prison treatment is not suitable to that class of the half insane, so the magistrates do not adopt either of these courses. They content

themselves with giving these persons short sentences. It is hardly worth while to say that this solution is neither equitable nor logical and that it does not protect society. What is needed, he thought, is the creation not of establishments of detention in the penal sense of that word, but establishments of retention where they may be treated until they are completely cured.

The debate on this subject was continued in the fifth session of the general assembly.

Doctor Pactet of Paris declared his acceptance of the conclusions of Doctor Colin. As to the question which had been raised in the discussions of the second section, he did not see any importance in the question whether the commitment of persons of limited responsibility to asylums should be regarded as the carrying out of a sentence or of a prescription for the sick. The main thing was to reconcile the interests of society with those of the individual. This could be done without introducing the idea of punishment or vengeance. He did not see any advantages from the intervention of the magistracy in committing such persons of limited responsibility; but he believed that such establishments should be under medical direction and that the physicians in charge of them should have a most extended knowledge of mental pathology, in which, unfortunately, many prison physicians are lacking, so that in prison establishments we see insane inmates subjected to all the rigors of the prison rules.

After further discussion the following conclusions were adopted:

RESOLUTIONS AS TO SPECIAL INSTITUTIONS FOR DEFECTIVES AND INEBRIATES.

1. It is necessary to create establishments of detention especially adapted—

(*a*) To delinquents of limited responsibility.

(*b*) To confirmed drunkards, if they are condemned for an offense.

The rules of these establishments, without having a repressive character, should be stricter and the discipline sterner than that of insane asylums. The regimen should vary according to the state of responsibility of the delinquent.

These establishments should be multiplied as may be necessary, but should not be so vast that they would forbid the application of individual treatment; they should be large enough to furnish occupation for the inmates at all kinds of agricultural and industrial work.

The inmates should receive systematic moral instruction, and when necessary the medical treatment which their condition requires.

OUTDOOR CONVICT LABOR.

Question 5.—Upon what principles should we authorize and in what manner organize agricultural or other public labor for prisoners in the open air?

Eighteen reports were presented on this question, as follows: One from Austria by Mr. Antoine Marcovich, director of the penitentiary at Graz; France had four—by Messrs. Etienne Flandin, deputy; Laguesse, director of the Maison Centrale at Poissy; Jules Veillier, director of the Cellular House of Correction at Fresnes; J. P. Vincensini, director of the Maison Centrale at Montpellier; Greece, one—by the Comtesse Eugénie de Kapnist, of Galestchina, Russia; Hungary four—by Messrs. Bernard Friedmann, solicitor at Budapest; Jules Király, clerk of the royal Hungarian prison at Vacz; Dr. Jules Fekete de Nagyivány, counselor of the criminal court, Budapest, and Albin Uhlyarik, director of the penitentiary at Szamosujvár; Italy one—by Mr. B. Altamura, director of the cellular prisons at Rome; Russia one—by Mr. de Loutchinsky, formerly inspector of prisons; Switzerland four—by Doctor Curti, director of the penitentiary at Regensdorf (Zürich); Dr. Karl Hafner, of Zürich; J. V. Hürbin, director of the penitentiary at Lenzburg, and Dr. O. Kellerhals, director of the agricultural penitentiary Colonie at Witzwil (Berne); United States two—by Judge Simeon E. Baldwin, LL. D., of New Haven, Connecticut, and Robert H. Marr, attorney at law, New Orleans, Louisiana. Dr. Rusztem Vámbéry, of Budapest, Hungary, was the reviewer.

The excellent résumé of Mr. Vambéry renders it unnecessary to analyze all of these reports in detail. This important question was considered twenty years ago by the International Prison Congress at Rome. In the resolution adopted it declared that work in the open air for prisoners sentenced for a certain length of time was advisable in certain countries and that such work should not be considered as irreconcilable with the penitentiary systems actually applied in different countries.

In 1901 the question was discussed by the congress of officers of German penal institutions.

Of the eighteen reporters representing some eight different countries there was not one who did not accept the principle that penal work should if possible be executed in the open air. A number of the writers thought it important to show the advantages of such labor, an indication that the opposition has not yet been reduced to silence. Judge Baldwin, of the United States, deemed it advisable to review and answer objections to the principle as to the argument advanced that setting prisoners to agricultural labor does away with competition with free labor. Mr. Vambéry remarks, and rightly we think, that the solution of the question of the competition of prison labor

with free labor can not be found in this way, since this work would influence the rate of wages and the cost of the product in agriculture as in other forms of industry.

A consideration in which most of the writers agree is that agricultural labor for prisoners is the best form for those who have previously gained their living in this way or who live in agricultural environments. To put farm laborers to industrial occupations with a view of having them enter factory life after their release is to divert them from their regular pursuit and to increase the tendency toward congestion in cities. This argument, says Mr. Vambéry, is particularly sound in countries where the rural population is 50 per cent of the whole, as in Austria or Italy, or 70 or 80 per cent, as in Hungary or Russia.

On one point all the authors are agreed, and that is as to the salutary effect of work in the open air upon the health of prisoners. Messrs. Laguesse and Flandin both remarked that industrial occupations in prisons for those previously addicted to farm life tends to anemia and pulmonary diseases. Other prison directors show that work in the open air tends to arrest growing mental disease. Mr. Király, of the prison of Vacz, points to the fact that in a period of nine years (1890–1899) the percentage of deaths rose from 3 to 9 per cent among prisoners occupied in industries in the shops, and was scarcely 1 per cent among those employed in the field. Mr. Vambéry notes that such figures must be received with caution, since the prisoners who come originally from the country are generally more vigorous and that field workers are generally chosen among persons of strong constitution. Equally agreed are the writers as to the moral value of such labor. There is also abundant proof that discipline can be well maintained in labor in the open air and that men who are removed from society and deprived of their liberty are sufficiently punished without being caged.

As to the economic results of such labor it is necessary to distinguish between the direct and indirect returns. Some of the writers hold that work in the open air is more remunerative than manufacturing industries, while others maintain that it is less remunerative.

While the different reporters are agreed as to the utility and success of work in the open air they differed more with reference to the principles, conditions, and details of its application. The extent to which prisoners may be employed in the open air and the method adopted, depends much upon the economic condition of the country, whether its predominant industries are manufacturing or agricultural, and upon the intellectual character of the people. In Holland, Belgium, and in England there is but little room for the improvement of the soil so necessary in Russia, Hungary, and in certain

parts of Austria and Italy. It is important also to consider the previous occupation of prisoners and their restoration to society.

As to the conditions which should control work in the open air most of the reports respond in a general way. Messrs. Flandin, Hürbin, and Veillier insist upon the possibility of a strict surveillance for the security of the neighboring inhabitants and to prevent prisoners from communicating with them. Mr. Loutchinsky also insisted that the work of prisoners should be concealed from publicity.

Some of the reports deal with the question as to how work in the open air can be adjusted to the existing penitentiary system. Mr. Hürbin suggests that such work should only be given to prisoners having a short sentence or to those having already served the greater part of their term. Their oversight should be committed only to responsible guardians. The dietary should be essentially the same as that of the penitentiary. Prisoners should be conducted to and from the place of labor by day. If the work is too far from the penitentiary for the prisoners to go and come stockades and barracks may be constructed for provisional colonies.

Mr. Király would have such labor form part of a progressive system, preparing the prisoners for conditional liberation.

Opinions also differed as to the kind of work in the open air. Mr. Vambéry remarks that there is a decided difference between light horticultural or garden work and the exacting labor necessary in building dikes, railroads, digging canals, etc.

The experience of those directors who have already tried work in the open air for prisoners is assuring. Mr. Laguesse, who has directed penitentiary colonies for more than a dozen years, says that the prisoners of Chiavari worked during an entire year a distance of 4 miles from the prison. They slept in tents on the seashore under the oversight of guards, and their behavior was excellent.

Mr. Vincensini said that at the house of correction at Embrun, now disused, about thirty prisoners went out daily a distance of 16 miles to work upon the roads. They left every day by railroad and returned in the evening in the same way. From the station to the prison they were escorted by two guards. There had been no escapes. He suggested that each camp or each farm should include about one hundred individuals. At the head of each farm there should be placed a chief guard and enough assistants to provide one guard for ten prisoners.

The reporters differed on many details as to the organization and management of prisoners working in the open air; but this depends so much upon local conditions that no general rule can be deduced.

To Mr. Laguesse was committed the duty of making a report to the general assembly. In the course of his report he laid stress upon the advantage of agricultural labor in improving the character of

prisoners, a fact which he had reason to observe in his long experience. The conclusions of the section were unanimously adopted without discussion.

RESOLUTIONS AS TO OUTDOOR PENAL LABOR.

I. Penal labor in the open air is applicable to every prisoner sentenced to more than one year and less than ten, and who has spent at least six months of his sentence in cellular confinement.

II. The following class of prisoners may be employed in cultivating the fields, in vineyards, and in gardens:

1. Those who were engaged in agriculture before conviction and whose conduct has been good.

2. Those who, before conviction, were vagabonds, mendicants, drunkards, and idlers, if their conduct in solitary confinement justifies the hope that they may be reformed.

3. Prisoners of a weak constitution and those affected by pulmonary diseases.

III. For such work a site should be secured as near the prison as possible.

IV. The products of this farm labor may in the first place be consumed by the prisoners.

V. Agricultural labor for prisoners should be chosen with reference to their personal aptitudes.

VI. In case of bad conduct the prisoner should undergo in the penitentiary the discipline prescribed by rules as far as his health permits.

VII. Prisoners should be employed at other work in the open air, such as the improvement of the soil, drainage, the building of roads and canals, the dredging of rivers, work in quarries, and wood-cutting:

(*a*) When the public interest requires such work and free laborers are lacking.

(*b*) If the prisoner's health permits.

VIII. Prisoners belonging to what is called the incorrigible class should not be assigned to this work.

IX. Prisoners employed in this work should pass the night and hours of rest as much as possible in the prison, but in case of necessity they may be lodged for a short period and under proper oversight in barracks where they should be prevented from communicating with free laborers or other prisoners.

THIRD SECTION.

PREVENTIVE MEANS.

President: Mr. Samuel J. Barrows.

Vice-presidents: Messrs. Cossy, Fournier, Henderson, Garraud, Trousselle, Milligan, Gibbons, Knopf, and Bolt.

Secretary: Dr. Székács Aladár.

Associate secretaries: Messrs. Dr. Kramer, Dr. Tomesányi Mor, and Wittman.

ALCOHOLISM AND CRIME.

Question 1.—What in different countries is the recognized influence of alcoholism upon crime?

What special means may be adopted to combat alcoholism with reference to prisoners in general?

There were eight reports presented on this question, as follows: France, by Bertrand-Victor Marambat, clerk of the Maison Centrale at Poissy, and Doctor Legrain, physician in chief at the Asylum of Ville-Evrard; Germany, by Doctor Gennat, director of prisons at Hamburg; Great Britain, by J. S. Gibbons, C. B., chairman of the general prisons board, Ireland; Hungary, by Dr. Jules de Csillag, professor at the University of Budapest; Luxembourg (Grand duchy), Mr. Brüch-Faber, director of penitentiary establishments of Luxembourg; Russia, by Mr. André Pionthovski, professor at the University of Kazan; Switzerland, by Dr. August Forel, formerly profesor of psychiatry at the University of Zürich.

In the absence of Mr. Földes, who had been designated as the reviewer, Doctor Forel consented to take his place.

M. Marambat, in answer to the first part of the question, presented figures to show the relation of temperance to crime. The propotion of intemperate prisoners committed was as high as 72 per cent in 1885; but the average percentage for twenty years from 1885 to 1905 was 66 per cent. He also presented statistics based upon the study of the prisoners in the Maison Centrale at Poissy.

Doctor Legrain marshaled an array of statistics gathered from various authorities in different countries, showing the relations of cause and effect between alcoholism and crime. The rising and falling curves of criminality are parallel to those of the consumption

of alcohol. The reasons which show the tendency to crime of drinkers explain also why alcoholism is so frequently found in the antecedents of criminals. The battle against alcoholism is a necessity as a remedy against criminality. He urged that statistics in different countries should be regularly published on a uniform plan, showing the relation which crimes and misdemeanors, even the most simple, sustain to the drinking habits of their authors.

He recommended the establishment of special asylums for the treatment of drunkards as one of the principal means to arrest criminality.

Doctor Gennat, of Hamburg, said that experience every day confirms the conclusion that alcoholism is the enemy most irreconcilable to the prosperity and welfare of a people. He believed that the use of alcohol must be charged with 50 per cent of the acts of brutality forbidden by law; that 75 per cent at least of offenses against morals are due to the immoderate use of alcoholic drink, and that from 70 to 90 per cent of the cases of habitual idleness, mendicity, and vagabondage are so intimately related to drunkenness that this vice is sometimes the cause and sometimes the consequence of the habit.

Besides, a certain number of harmful acts not committed during drunkenness are nevertheless caused by alcohol. Alcohol diminishes the productive capacity, physical and intellectual, reduces the chances of gain and then makes it difficult to secure remunerative occupation. Distress and misery follow from which a great many crimes arise. The drinker loses his force of will; he becomes liable to temptation. To gratify his desires in an illegal way he will lie, beg, and steal. He loses his love of home and neglects his family. Children of dipsomaniacs are liable to be degenerate. Many of them lead a sad existence in hospitals and asylums. Without doubt these consequences of alcoholism are much more important in relation to criminality than are the offenses committed during intoxication.

Referring to the second part of the question, as to the treatment of alcoholism and prisoners, Doctor Gennat remarked that it is better to suppress its use in prison, except for medical purposes. The use of alcohol and that of tobacco often go together. The effects of the first are aggravated by those of the second, for the immoderate use of tobacco may have consequences similar to those of alcohol. In the prison at Hamburg tobacco is interdicted in all its forms and severe penalties are inflicted upon those who use, possess, or try to procure tobacco or fermented drink. It is superfluous to say that every officer in a prison ought to give an example of sobriety.

Total abstinence is necessary for habitual drinkers. To attempt to cure them by a gradual reduction of their indulgence seemed to Doctor Gennat like cutting off little by little the tail of a dog under the pretext that the animal would suffer more if it were cut off at once.

An interesting and important contribution to the papers of the congress was that of Mr. J. S. Gibbons, C. B., chairman of the general prisons board of Ireland. The steps which Great Britain has taken in the direction of curative treatment for drunkenness are viewed with great interest by those who recognize the futility of the present legal methods of dealing with intoxication and the offenses which grow out of it. Mr. Gibbons said:

The inebriates act, 1898, was passed to enable curative treatment in a reformatory to be substituted for imprisonment in certain cases of offenses of drunkenness and drink-caused crime. By that act new powers were given to judges and magistrates to commit the delinquent for cure to one or other of the institutions hereinafter described. The policy of this act was based upon the recommendations of several royal commissions and on the advice of those whom either duty or philanthropy had brought into close relations with the criminal inebriate class. Experience has proved how unavailing fine or imprisonment is to effect any reformation in the habits of the confirmed drunkard. No prison system yet devised has effected any improvement in the drunkard committed for the usual seven days' or fourteen days' imprisonment.

There are few more familiar objects than the habitual drinker of the city, town, and countryside, idle, dissolute, and quarrelsome when in drink, committed again and again to short terms of imprisonment, and forming the center of disorder and evil example in every locality in which he resides. A large proportion of men of this class become heavy charges upon the rates as paupers, or, ultimately, after a course of evil doing, find their way into asylums as imbeciles or dangerous lunatics. The sober man's burden does not end with the support of these. He is taxed for the large police force which must be maintained to save the drunkard from himself and the public from the drunkard. Police courts and public prosecutions follow in due course, together with their adjuncts, prisons and bridewells.

Sixty per cent of the crimes are committed in order to obtain drink, or the means of obtaining drink, or are done under the irresponsibility produced by excessive drinking. In this state of things counsel was taken of experts interested in the diminution of crime and drunkenness, with the result that the inebriates' act, 1898, was passed for the United Kingdom. Two classes are affected by this act, viz (sec. 1), habitual drunkards guilty of indictable crimes committed by them under the influence of drink; (sec. 2) habitual drunkards committed four times within any one year of certain scheduled offenses of drunkenness. The inebriates act gives jurisdiction to judges and magistrates to send persons to whom the act applies to a reformatory instead of to a prison. It prescribes a course of treatment mild and generous in character, but sufficiently long to afford reasonable prospect of the inebriate's cure and reformation.

Two objects, it has been thought, will be effected by these means—one, to take the habitual drunkard away for a lengthened period from the locality in which he resides, and which he makes the center of disorder and evil example; the other, the reformation of the habitual

drunkard himself, by a curative course of treatment extending over an adequate period. Three years is the maximum period of detention. Experience has shown that very little can be effected in short periods of detention, such as one year or eighteen months.

Two distinct types of reformatory are provided for by the act, (1) the State inebriate reformatory, and (2) the certified inebriate reformatory. Habitual drunkards committed under section 1 may be sent either to the State reformatory or to a certified reformatory the managers of which are willing to receive them. Habitual drunkards committed under section 2 must, in the first instance, be sent to a certified reformatory. The need for the classification and separation of drunkards rendered these two types of reformatory necessary. Drunkards, more than other people, range themselves into categories of the tractable and the intractable. The action of continuous drinking on the nervous system accounts for this. Ten per cent of "cases" are irresponsive to kindness and are quite unmanageable under rules and restrictions found to suffice for the amenable majority. The State reformatory, with its stricter rules and slightly penal methods, is intended for these intractables. Experience has shown, contrary to expectation, that troublesome "cases" are more numerous among section 2 convictions than among those convicted under section 1; and although the former, as the act stands, must go in the first instance to a certified inebriate reformatory, they can, under other powers given in the act (sec. 6, d), be quickly and readily transferred from one type of institution to the other. Thus a well-disposed and amenable "case" committed to a State reformatory may be transferred to a certified reformatory the managers of which are willing to receive him. Similarly, a troublesome "case" in a certified reformatory may be removed to a State reformatory, should the managers of the former find the more mild resources of their institution ineffective. Unruly "cases" in a certified reformatory are much benefited by the knowledge that they can be removed, if needful, to an institution of stricter discipline and more penal methods.

The state inebriate reformatory is a Government institution, and in Ireland is under the control and management of the general prisons board, and the expenses are paid out of the moneys voted by Parliament.

Certified inebriate reformatories may be established by (1) county or borough councils, singly or by joint action; (2) philanthropic or religious bodies; (3) private persons. The founders of a certified reformatory must provide the ways and means, but a very substantial contribution is made by the treasury out of money provided by Parliament. The grant amounts to 10s. 6d. per week per inmate committed under section 2, and 16s. per week per inmate committed under section 1, during the period of detention. It is expected that local bodies will make such additions to this grant as will enable reformatories to be started and successfully maintained.

The Irish government have established and equipped a state inebriate reformatory at Ennis, in the county of Clare. It was opened on the 1st of June, 1899. It was formerly the Clare County prison, and underwent several structural alterations before being opened as a reformatory for criminal inebriates. It stands upon 4 acres of land and is situated in one of the most salubrious parts of Ireland.

Dr. Jules de Csillag, of the University of Budapest, presented statistics from prominent countries showing the relation of alcoholism to crime. He urged also the collection of additional data showing not only commitments for drunkenness and convictions for offenses committed while intoxicated, but also other cases in which alcohol has exercised a direct or indirect influence upon the commission of the offense.

He urged the establishment of special asylums for inebriates committing crime. The use of alcohol should be forbidden in prison. Lectures and other instruction should be given in prison concerning the effects of alcohol.

Mr. Brück-Faber, director of the penal establishments of Luxembourg, said that 67 per cent of their prisoners committed their offenses in a state of drunkenness more or less pronounced. Various measures have been taken by the Government to regulate and restrict the sale of liquor, but experience had shown that these preventive measures had not produced the desired results. He proposed to still further extend instruction in regard to the baneful influence of alcohol. He suggested the introduction of economic motives by the formation of savings societies to stimulate temperance and industry, the still further regulation of saloons, and the closing of those which thrive on the weakness of their patrons.

Doctor Forel, of Switzerland, who has given great attention to this subject and written some treatises upon it, contented himself with a very brief report showing that from 50 to 75 per cent of crimes against the person are due in part or in whole to alcoholism, and especially to occasional drunkenness. Since alcohol is the cause of alcoholism and since a drunkard can only be cured by complete abstinence from alcoholic drinks, he recommends the complete suppression of such liquors, including cider, wine, and beer, in every penal establishment. Secondly, to send habitual drunkards to special asylums; thirdly, to put the incorrigible under guardianship and to send them to an asylum for dangerous and incurable persons; fourthly, to recommend to all prisoners who have committed their offense under the influence of alcohol to become members of total abstinence societies after leaving prison. Prisoners' aid societies should work in this direction.

In his review of the various reports Doctor Forel, as reviewer, took issue with Mr. Marambat, who is in favor of allowing prisoners a small quantity of wine as a recompense for their labor. Mr. Forel pointed out the disastrous results flowing from this practice in some European prisons.

Mr. Cossy, of Switzerland, informed the section that the use of wine as a reward for prisoners has been discontinued in the peni-

tentiary establishments of Canton Vaud. It is more difficult, however, to deal with the employees, as total abstinence can not be imposed upon them.

Mr. Simon van der Aa said that in Dutch prisons the use of liquor had also been abandoned as a recompense to prisoners. Mr. Gibbons made the same announcement with reference to the prisoners of Great Britain.

RESOLUTIONS AS TO ALCOHOLISM AND CRIME.

The Congress holds:

1. That careful statistics should be collected with reference to intemperance; that on Saturday evening, Sunday, and Monday morning the sale of alcoholic liquor should be restricted.

2. That the use of distilled or fermented liquors, including cider, wine, and beer should be interdicted in all penitentiaries and houses of correction, particularly as a recompense to prisoners, and be replaced by milk or other nonalcoholic beverages, or by an allowance of money not to be spent in the purchase of alcoholic drinks.

3. Temperance lectures should be given in penal institutions and popular literature on the subject of alcoholism should be freely distributed for educational purposes.

4. Prisoners' aid societies should combine with temperance societies in the restoration of inebriates, so that prisoners more or less addicted to liquor by entering these societies, on their release from prison, may be protected against relapse.

5. Laws should be modified so that instead of the present system of committing inebriates provision should be made for prolonged detention in a public asylum for curable drinkers or in a private asylum designated or controlled by public authority.

6. Steps should be taken to warn all habitual drinkers who become a menace to society that they will be legally restrained if they do not retire voluntarily for the necessary time to some institution for curable drinkers.

TUBERCULOSIS IN PENAL INSTITUTIONS.

Question 2.—What are the best means of combating and treating tuberculosis and of avoiding its propagation in penal establishments of every kind?

Twelve reports were presented on this question, as follows: *Belgium:* Doctor Delmarcel, physician of prisons at Louvain, and N. Thiltges, associate physician at the prison of Saint-Gilles (Brussels). *France:* Mr. Georges Vidal, professor of the faculty of law at Toulouse. *Germany:* Doctor Kolb, former physician of the penitentiary at Kaiserslautern (Bavaria), and Dr. A. Baer, physician in

chief of the penitentiary at Plötzensee, Berlin. *Great Britain:* Mr. J. S. Gibbons, C. B., chairman of the general prisons board, Ireland. *Holland:* Dr. J. W. Deknatel, physician at the cellular prison of Breda and the house of detention. *Hungary:* Ladislas de Uray, director of the convict prison at Nagy-Enyed; Dr. Martin de Pattantyús-Abraham, prison physician at Illava; Dr. Desider Okolicsányi-Kuthy, professor agrégé at the University of Budapest; Dr. Ladislas Büben, prison physician. *United States:* Dr. J. B. Ransom, prison physician at Dannemora, New York.

Mr. Okolicsányi-Kuthy, of Hungary, was the reviewer.

Mr. Barrows, wishing to participate in the discussion of the first section, invited Mr. Robert Cossy, counselor of state of Switzerland, to preside in his place, which invitation was kindly accepted.

The importance which the subject of tuberculosis and its prevention and treatment have assumed in modern life is reflected in the proceedings of the International Prison Congress. The question was placed on the programme on motion of Messrs. Grimanelli, of France, and Barrows, of the United States, at the meeting of the International Prison Commission, and for the first time in its history the congress grappled with this serious problem. In prison, as outside of it, the disease has an international character, as will be seen in the twelve reports presented from seven different countries, in which North Germany and Bavaria are included. Special pains were taken by the commission to call attention to detailed aspects of the subject to be brought out in the reports. While these papers differ in details, they are unanimous in regard to the preventive measures to be taken against the development of tuberculosis in prisoners, and with reference to the application of modern prison principles of treatment in such institutions.

The papers presented abound in information concerning tuberculosis in different countries. Doctor Delmarcel presented statistics in regard to tuberculosis in the prisons of Belgium. The indications there are that the greater number of those afflicted with the disease during prison life have had it at the time of their commitment. Other prisoners show a natural or hereditary predisposition to this malady. The depression of prison life, the lack of proper food, provoking digestive troubles, the lack of sufficient exercise in the open air and of proper ventilation, the exposure to dust in certain trades, are all favorable to the development of the disease. The danger of propagating it is increased in prisons under the congregate system, in houses of refuge and other institutions where prisoners easily communicate with each other. He laid stress, as does every specialist in tuberculosis, on the necessity of preventing expectoration in cells, workshops, and dormitories. The raising of dust by dry sweeping

in a prison should be avoided; the floor should first be sprinkled with an antiseptic solution. All cells and places where tuberculous prisoners have been confined should be thoroughly disinfected before a new occupant is admitted. The possibility of taking the disease through milk and meat should also receive attention. Nevertheless, Doctor Delmarcel favors an abundant use of milk, and also of flesh foods for consumptives.

Dr. N. Thiltges agreed with his colleague as to the sources of contagion and as to the tendency of prison life to develop latent germs of disease. He called attention to the imperfect way in which the physical record of prisoners was made, and urged the registration of more minute and precise data. In order to solve the problem of tuberculosis it is necessary to determine:

(*a*) The age and number of prisoners found free from tuberculous lesion at the time of imprisonment.

(*b*) The age and number of prisoners affected: (1) of latent tuberculosis; (2) of active tuberculosis at the time of imprisonment.

(*c*) The age and number of prisoners of series (*a*) who become tuberculous during their detention, and at what time.

(*d*) The age and numbers of series (*b*) whose tuberculosis is improved or aggravated in prison, and after what length of time.

(*e*) Finally, the age and number of prisoners dying from tuberculosis. These deaths should be determined in each one of the categories indicated above.

It is only by securing exact information on each of these different points that we may judge of the gravity of the risk of tubercular contamination in a prison environment, and also of the influence of imprisonment upon the evolution of the disease.

Mr. J. S. Gibbons, chairman of the general prisons board of Ireland, stated that of the three sister countries constituting the United Kingdom Ireland has the largest proportion of tuberculosis in its general population. Forty years ago this was not the case; mortality due to tuberculosis was not then so high in Ireland as in England or Scotland. In 1900 Ireland shows a mortality in this disease of 2.9 per cent, while England has 1.9 per cent, and Scotland 2.3. Statistics show, therefore, that in Ireland the increase in tuberculosis has been absolute as well as relative, and that this disease is the cause of 15.2 per cent of the total number of deaths in the country. Pulmonary tuberculosis, the only form of the disease which Mr. Gibbons considered in his report, caused the death in Ireland, from 1890 to 1900 of 73,349 persons between 15 and 45 years of age, representing an annual proportion of 3.5 per cent of the ordinary population within these limits of age. And if we consider simply the period between 15 and 35 years we find that the half of these deaths are due to phthisis. The most surprising fact brought out in Mr. Gibbon's

report is that the disease in the prisons of Ireland is less serious than in the general population of the country. In this respect Ireland stands almost if not quite alone.

The reasons why pulmonary tuberculosis is developed in such a slight degree in Irish prisons relatively to the general population of the country, and perhaps also to the population of prisons in other countries, are well worth the attention of all interested in this question. Acording to Mr. Gibbons the chief reasons are:

1. Irish prisoners work a large part of the time in the open air. All prisoners who do their work in their cells must exercise two hours daily in the open air, and this time is extended when the physician thinks it important for the health of the prisoner. But the great majority of prisoners are occupied during the greater part of the day at work in the open air, such as breaking stones or splitting wood. The groups which work under the congregate system are employed in large halls or spacious workshops. Still more, two-thirds of the Irish prisoners have a certain extent of ground within which a great number of prisoners of both sexes are employed with a view to their instruction in agriculture. Young offenders have special occupations in the open air, and those who are imprisoned a month or more take part in military gymnastic exercises. Thus the great majority of prisoners are not in their cells during the day except at mealtime and at leisure moments.

2. The cells are spacious, well ventilated, well lighted, and maintained scrupulously clean. They are whitewashed twice a year. Prisoners are forbidden to expectorate in their cells. They are less tempted to do this than when they are at liberty, for most of them are not allowed to smoke, and those who have this privilege can only enjoy it during hours of exercise. A dangerous source of infection is thus reduced to a minimum.

3. The change in the conditions of existence is salutary for the greater part of the prisoners. As three-quarters of the offenses in Ireland are caused by drunkenness, it is clear that a great number of the condemned before their arrest were not only victims of alcohol, but were badly fed and insufficiently clothed and exposed to cold and humidity. For these the prison, with its abundant and healthy dietary, its equal temperature, and salubrious occupations, is a beneficent refuge, an excellent sanitarium. Prisoners generally increase in weight during their detention. There is an abundance of milk in the dietary.

In an interesting report Doctor Büben showed by what means success had been secured in reducing the percentage of mortality in the Hungarian prison of Maria Nostra, founded in 1858. The change was effected through better ventilation, reducing the number of commitments so as to prevent overcrowding, forbidding expectora-

tion, and the raising of dust by dry sweeping, better diet for those losing weight, increased work in the open air, and assiduous oversight by the physician.

Another elaborate and valuable paper by a Hungarian writer was that of Doctor Pattantyús, physician of the penitentiary of Illava. The deaths attributed to tuberculosis amount from 50 to 80 per cent of the total mortality. Dr. Pattantyús, who has long given attention to this disease, holds that a close connection exists between tuberculosis and diseases of the digestive organs. In 312 cases of deaths resulting from tuberculosis he found that diseases of the organs of digestion had preceded tuberculosis in 209 cases, or 67 per cent of the total number of deaths. He did not advance this idea, however, to oppose accepted views that the enormous prevalence of tuberculosis in penal establishments is due to overcrowding, to a lack of exercise, insufficient nourishment, and infectious conditions. Another cause favoring the development of the disease is psychical—the depression which many prisoners experience. While some writers advocate the cellular system because it prevents the infection which may come from congregate imprisonment, Doctor Pattantyús notices a greater degree of tuberculosis, especially among first offenders who undergo this form of imprisonment, and attributes it largely to the depression of spirit which accompanies it and which affects and disturbs the digestion. He advocates the reduction of the number of offenses punishable by imprisonment.

The reporters were practically unanimous in holding that tuberculosis could be averted or restrained in prison as in the free population, providing the same hygienic measures were taken. They are also agreed in demanding that prison establishments should be constructed and conducted according to principles of sound hygiene.

One of the most complete of the reports was that of Doctor Kolb, formerly physician of the prison at Kaiserslautern, Bavaria. He calls attention to the influence of tuberculosis in prison upon the free population.

"Prisons are cradles of infection, and they are therefore a perpetual danger to the whole people. 'What is the use,' asks Doctor Büdingen, of Mayence, 'in sending tuberculous persons to sanitariums if in their place there are left tuberculous people who have come out of prison?'

"There is no doubt," says Doctor Kolb, "that the frequency of tuberculosis in prison population reacts upon the free population outside. But the importance of this has never, up to this time, been calculated, so far as I know. Our prison statistics will not allow this even approximately, because it is impossible to avoid counting the same case more than once, and also because the cases that are not

treated do not usually figure in prison statistics. To reach an approximate idea of how many tuberculous persons leave our prisons every year I have made the following calculations:

"In 1902 in the German Empire about 10,000 persons were sentenced to the workhouse, 114,000 to prison for more than a month, and 156,000 to prison for less than a month. The releases were about the same number. We must base our calculations upon the total number and not on the average population. In the Prussian workhouses in 1902 the cases of tuberculosis made 1.3 per cent of the whole population; in Bavaria, 1.4 per cent. This proportion gives us for the 10,000 from 130 to 140 tuberculous ex-convicts. It is more difficult to calculate those in the prisons because the medical control is less rigorous there, and because, on account of the short sentences, there may be no appreciable symptom of tuberculosis at the time of their release. In the Prussian prisons under the minister of the interior the number of tuberculous is only 0.22 of the convicts. If we apply this to the statistics given, we shall have 594 cases, or a total of 724 tuberculous persons released each year from the institutions of the German Empire. To be exact, we must exclude from this number those who might have been tuberculous even if they had not gone to prison. It is estimated that in Prussia from every thousand persons dying above the age of 20, 2.8 die from tuberculosis, or, in round numbers, 3. If that represents the number that would have had tuberculosis of this total of 280,000 we shall have 840 cases, a number even higher than our first calculation. This result is evidently false. In the five chief States of Germany 180 convicts are liberated every year on account of tuberculosis, and a full half of all those who left the penitentiary of Kaisheim were tuberculous.

"If, now, we take as the basis of our calculation the 1.4 found for the large prisons of Bavaria in the years from 1896 to 1901 and apply this proportion to the 10,000 plus the 114,000, we shall have a total of 140 plus 1,596=1,736, from which we must deduct the 372 who might have had the disease even if they had remained free, leaving a total of 1,364 annually released who are tuberculous. It is true that the limit of from one to six months that we have chosen is too high, but, on the other hand, those sentenced more lightly have been left aside. The latter on account of the shorter sentence are less likely to contract the disease under certain circumstances.

"It must be remembered that tuberculosis is less frequent in the Prussian than in the Bavarian prisons. If, however, we take account of the fact that many persons have the germs of the disease before they show any appreciable symptoms of it, we may say that 1,500 tuberculous persons leave German prisons each year.

"In Italy, from similar calculations, we find that in the year 1900

about 2,950 tuberculous men and women left the prisons. Making allowance for those who would have been tuberculous even in freedom, we still have 1,540 tuberculous ex-convicts whose malady may be ascribed to their imprisonment.

"If we admit an average duration of five years for tuberculosis, we find that of the 1,200,000 tuberculous who, according to Dettweiler, live in Germany, 7,500 at least have contracted that disease in prison. Each of these 7,500 is a means of new infection from the conditions in which they live.

"The danger is not alone of one individual giving the disease to another individual. From my experience as prison physician I have been long convinced that it may be conveyed by material objects, as, for instance, the military clothing made in prisons. An attempt has been made to explain the frequency of tuberculosis in the army by the supposition that the soldier had the germs when he was a recruit, but in France it is seen that tuberculosis is more frequent in the army than in civil life. We have a right to think that soldiers are in some way subjected to greater risks of infection, and it is impossible to deny that infection may be carried to them by their military garments which have been made in prison.

"The whole community is interested in having these dangers reduced as much as possible, and also in seeing that work should be provided for all men released from prison who are able to work, that they may not become objects of charity and may be helped to refrain from becoming recidivists. Prisoners have a right to demand that their health shall not suffer from imprisonment.

"What should be the hygiene of a prison? The best reply is that the sanitary condition should be as good for the population of a prison as for the free population of the same age. Mortality from tuberculosis should not be greater in a prison than outside.

"Different kinds of prisons have different degrees of mortality. Houses of detention where the prisoner stays but eight days (the number of such convicts in Germany is about 40,000 annually) should not be selected to learn the influence of hygienic or unhygienic conditions. Convict prisons—state prisons—should be taken if one is looking for examples of the effect of imprisonment upon the inmates. The administration does not differ much in different countries. Medical superintendence is more accurate. Their statistics are more trustworthy. Release for medical reasons is more rare. The development of tuberculosis through the various factors which help to induce it may be better studied on account of the longer sentences. This is not saying that the short-time prisons are of no importance so far as tuberculosis is concerned. Quite the contrary. Those prisons, managed by officials who have not the least idea of hygiene, without proper medical care, often badly built, dirty, with no means

of disinfecting, are even more dangerous than the large prisons as sources of tuberculosis, perhaps, but one can not there study cause and effect as in the larger prisons because often the evils engendered appear only long after leaving the prison."

Doctor Kolb's paper, from which the above is quoted, abounds in excellent suggestions as to hygienic measures. He holds that in every state the direction of prisons should be centralized as much as possible, which would insure a better appreciation and observance of hygienic measures, for it is in the small local jails and prisons that the worst conditions are found. The more we reduce the number of little prisons the better hygiene we shall get. All prison officers should receive special instructions in hygiene. The doctor should be completely independent in this domain and should have entire responsibility in all that concerns the health of prisoners. New prisoners admitted should not come in contact with others until after their examination. The isolation of the tuberculous should be as complete as possible. Even light cases should be placed in special halls. Grave cases should be transferred to separate divisions in the large prisons constructed for the tuberculous inmates, or distinct sanitariums should be provided. It is desirable that, instead of being sentenced to short terms, prisoners should as much as possible be placed on suspended sentence. Prisoners discharged with tuberculosis should be transferred to institutions for their treatment so as to avoid the propagation of the disease in society.

All articles through which the disease may be communicated should be scientifically disinfected before being given to other prisoners. Prisoners when seated at their work at the same table opposite each other should be separated by a screen of glass at least as high as their heads. Prisoners should be taught to raise their hands to their mouths and turn away from others when coughing. In addition to artificial disinfection natural disinfection should be employed, especially through sunshine and cleanliness. All portable objects, including bedding, should be exposed as often as possible to the direct rays of the sun, which exercises such a destructive action upon tuberculosis bacilli. Water should be supplied in abundance on every floor and bathing should be frequent and regular.

In prison construction great pains should be taken to provide cells sufficiently spacious. According to accepted rules in German States the cells should contain 22 cubic meters, with windows a meter square. This is the minimum even for short-sentenced prisoners. In Belgium the law fixes 25 cubic meters (882 cubic feet) as the size of cells; in Austria, 26 to 27 cubic meters (918 to 953 cubic feet) on an average; and in England, 30 cubic meters (1,059 cubic feet) is the standard. Cells utilized only at night should contain at least 20 cubic meters (706 cubic feet). Doctor Kolb does not, however, take account of the

fact of forced ventilation in changing the air of cells. In the United States Penitentiary at Leavenworth the air in the cells can be changed every seven minutes.

Prisoners working together in workshops should be completely separated. Large windows with transparent glass are not only necessary for ventilation, but also to permit the entrance of the direct rays of the sun. For this reason cells should not be placed to the north. The rays of the sun not only rapidly destroy the bacillus of tuberculosis, but favor in a high degree organic changes and exercise a favorable influence upon the nervous system. The floor should be free from joints and inequalities; it is best constructed of cement or asphalt.

Temperature should be sufficiently elevated. In winter in rooms occupied by prisoners it should be about 17° C. (62° F.). The temperature should be regulated according to the external temperature, and under the direction of the physician. In halls and cells temperature should not fall below 10° C. (50° F.). The chapels are frequently too cold and prisoners are often insufficiently clothed. Thermometers should be placed in rooms, shops, and in cells. The chilling of prisoners by causing them to stand insufficiently clothed in cold corridors and the open air, as is frequently practiced when the count is taken, should be avoided. Those accustomed to wear flannel shirts and woolen vests should wear them in prison at least until they are cured. Prisoners should not be exposed a long time to rain or to excessive heat. The cold diminishes the bodily force of resistence to bacteria, and by producing catarrhal complications of the respiratory organs favors the lodgment of tubercle bacilli. The food should be nourishing, especially rich in fats, and contain a sufficient quantity of animal albumen. Food should be sufficiently seasoned and appetizing. As to alcohol, it should be completely suppressed. Barbier found that 98 per cent of tuberculous persons admitted to the hospitals of Paris were habitual drinkers. Special dietaries should be provided for weak and convalescent prisoners.

Doctor Kolb agrees with Mr. De Uray that prison occupation often favors the development of the disease. He holds that the hours of work should not be too prolonged, that occupation should be avoided which requires the prisoner to stoop over, such as tailoring and shoemaking, and those which raise dust, such as cigar making, weaving, etc. Agricultural labor should be preferred when possible.

In calling attention to the importance of exercise in the open air Doctor Kolb remarks that in Nuremberg the number of sick decreased when they were allowed more exercise in the open air. All prisoners should have twice a day exercise in the open air for at least half an hour, combined with gymnastic exercise with or without apparatus. As to punishment, Doctor Kolb condemns the dark cell and the re-

duction of food. Dark cells, he says, are rarely clean, and as the light of the sun does not reach them directly it is certain that they often harbor tubercle bacilli.

Mr. Ladislas de Uray, director of the prison at Nagy-Enyd, holds that the development of tuberculosis in prison may be largely attributed to the industries followed in these establishments. Tuberculosis is the principal cause of mortality in the population of Vienna, one-fourth of whom fall victims to this disease; but among the industrial population the proportion rises to one-third of the total number of deaths. The remedy is not to abolish labor, but to establish it on better conditions.

As to the question of cellular imprisonment in relation to tuberculosis, Mr. Uray opposes the conclusions of Doctor Pattantyús and maintains that the proportion of tuburculous cases developed in prison is less under cellular confinement. Perhaps in making the comparison, sufficient regard was not had to the varying conditions of the different prisons compared. A poor cellular prison, with small and ill-ventilated cells, ought not be compared with a thoroughly hygienic, modern, congregate prison, and likewise a poor congregate prison ought not to be compared with the best cellular prison. Conclusions can only be formed safely upon comparisons where the conditions are uniform.

The reviewer, Mr. Okolicsányi-Kuthy, thus summed up the recommendations of the various experts in relation to the best means of combating tuberculosis in prisons:

1. An assiduous medical service with careful visitation and classification of prisoners and special hygienic treatment organized for tuberculous cases.

2. The sphere of medical authority should be more extended in prison; the direction of the separate sections designed for the tuberculous should be committed to a physician.

3. After a medical examination those found tuberculous on entering should be consigned at once to separate quarters.

4. Individual treatment with special regard to principles established in a sanitarium.

5. Vigilance in avoiding every condition or practice which may favor the spread of the malady and disease. Among the things to be observed are great cleanliness, the employment of antiseptics, the absolute prohibition of spitting upon the ground, instructions relating to hygiene, thorough disinfection of all rooms occupied by tuberculous prisoners as well as of objects belonging to them.

6. Intelligent care of those predisposed to tuberculosis in order to avoid the development of the disease—such as proper hygiene of the cell and the bedding, plenty of exercise in the open air, occupations not injurious to health; varied nourishment rich in albumen and in

fat; proper care of the skin, baths, and special care for convalescents from other diseases until they have recovered their former vigor.

The valuable paper contributed by Dr. J. B. Ransom, physician to Clinton Prison, Dannemora, New York, received merited attention from the reviewer. Doctor Ransom's report was published as a separate document by Congress of the United States (H. Doc. No. 142, 58th Cong., 3d sess.)

Dr. A. Baer, physician in chief of the penitentiary at Plötzensee (Berlin) referred to the example of Texas in establishing the Wynd farm at Huntsville (also described by Doctor Ransom in his report). Doctor Baer indorsed the conclusion of another writer that "the example of Texas is to be followed."

The reviewer laid special stress upon the importance of an international committee of experts on the subject of the location and construction of a modern prison establishment.

Dr. Leon Gordon, of Russia, was designated to present the report to the general assembly.

DISCUSSION.

Dr. S. A. Knopf, of New York, a delegate of the United States, and one of the most eminent authorities in the United States on tuberculosis, was present at the congress and addressed the general assembly on the subject in the French language. Doctor Knopf said:

In some of our prisons in the United States 50 per cent of the prisoners die of tuberculosis. The chief cause of this large number of deaths is the lack of air and light, of sufficient ventilation in the cells and shops, poor diet, overwork, mental depression, and, finally, that which is of not least importance, living with those who have a predisposition to tuberculosis without any measures being taken to prevent the spread of the bacillus of tuberculosis from expectoration upon the walls, the floors, and the corridors of the prison.

It is evident, then, that the first step to be taken to prevent the spread of tuberculosis should be a careful examination of those who enter the prison and the isolation of those affected with the disease. Only by a painstaking medical examination, bacteriologically and perhaps, with the X-ray, and by the isolation of suspected cases, can the spread of the disease be checked and those already affected with it have their condition improved.

Every tuberculous convict should be isolated in the house of detention or jail as well as in prison, and should be submitted to hygienic and medical treatment. When he is transferred from the jail to the prison the record of his disease should be sent with him. On his arrival in the institution to which he has been sentenced the prison physician should be the one to decide whether he is in a condition to work and what kind of work is best suited to him. Tuberculous prisoners should never work in shops where there is much dust or excessive heat. Stone breaking, tailoring, making of cigars, etc., are particularly dangerous for such persons. Men who make cigars have the habit of sticking the last leaf down with their saliva, a

fact that makes it plain that even those but slightly affected by tuberculosis should be kept from this employment for the sake of others, as well as for their own sake.

Although it is unhappily true that many young delinquents who are sent to reformatories for a first offense return sooner or later to ways of crime and are found in the prisons, yet it is not less important that the juvenile criminal should have the same opportunity for regaining his health, if he is tuberculous, as other prisoners. I have been led to believe that work out of doors will improve the condition of juvenile criminals and at the same time lessen the tendency to crime, which is increased by bad environment and the lack of light and air in the big cities.

The prisoner should not only be examined medically on his entrance, but every three months afterwards. In that way cases which at first may have escaped detection may be discovered before the disease has made much progress.

Expectoration, except into receptacles for the purpose, should be strictly forbidden by strict disciplinary rules. Receptacles should be provided in the cells, the shops, the chapel, the schoolrooms. I would go farther, and see that each prisoner should be provided with a metal pocket receptacle, like those provided at sanitariums for tuberculosis. Each prisoner should have a cell to himself with direct sunlight in it. Electric light should replace gas for use at night. The men should have open-air exercise several times a day, if only for a few moments, when they should be enjoined to take long drafts of fresh air, or better still to take assigned respiratory exercises. Sundays and holidays should form no exception. To leave prisoners in their cells on Sundays and holidays is deplorable for their health whether tuberculous or not.

Prisoners should not be overworked. The duration and amount of labor should be suited to their strength. Those who already have the disease, or who have had it and recovered from it, should be sent to agriculture colonies. Such colonies may be both a moral and a financial success.

I protest against discharging those about to die with tuberculosis without the assurance that the ex-convict shall have a place to go where he will be cared for and where his presence will not endanger others.

Those far gone in consumption should be cared for in a special hospital attached to the prison, or in a sanitarium for the criminal tuberculous.

The best possible care should be given to those susceptible of cure and, above all, measures should be taken to prevent men who have not the disease from contracting it in prison. It is our right and our duty to imprison men when necessary, if they have been guilty of crime, but however great the crime, we have no right to condemn them to contract tuberculosis.

RESOLUTIONS AS TO TUBERCULOSIS.

1. The principles upon which a modern prison establishment should be located and constructed should be carefully formulated by a commission of experts appointed by the congress, and the results placed at the service of different countries.

2. Precise regulations concerning all the hygienic measures of penal establishments should be prepared by a committee chosen by the members of the congress.

3. A modern penal establishment should be provided with special quarters for the isolation and convenient treatment of those suffering from this disease.

STATE INSPECTION OF GUARDIAN OR AID SOCIETIES.

Question 3.—What are the proper limits as to the intervention of the State with reference to guardian or aid societies?

This question arose in the course of discussion at the last congress and had reference mainly to what rights of inspection or control should be exercised by the State with reference to young delinquents committed to aid societies. The discussion turned wholly upon French and continental practice, but the same question has arisen in various parts of the United States under different conditions. Disputes have often occurred between agents of the State and of such societies because the authority of the State as to inspection or control has not been clearly defined either with reference to societies supported entirely by private contributions or to those supported in part by grants or appropriations from the State. As a result of the discussion at Brussels this question, on the motion of Senator Bérenger, was placed on the programme of the Budapest congress.

Five reports were presented on this question as follows: France: Mr. Ernest Passez, advocate to the council and to the court of cassation, president of the aid society for young adult discharged prisoners; Mr. Georges Picot, permanent secretary of the Academy of Moral and Political Science, Mr. Jules Veillier, director of the Cellular House of Correction at Fresnes. Germany: Mr. Fuchs, counselor at law, president of the aid societies of Baden, at Carlsruhe. Switzerland: Mr. J. G. Schaffroth, inspector of prisons of the Canton of Berne.

The reviewer was Dr. Joseph de Lévay, secretary of the department of justice, Budapest.

The fullest presentation of the subject was given by Mr. Georges Picot, permanent secretary of the Academy of Moral and Political Science of France. It is necessary at first, he said, to define the nature and meaning of "patronage." By it is meant those measures of aid and guardianship which surround the child to protect it against moral danger, or to reform the young delinquent, or to prepare the condemned prisoner to re-enter free life, or to protect the discharged prisoner against relapse.

Thus conceived, patronage is a complex effort which fulfills a

social need of the highest order. Now all social work may be accomplished either by the private individual or by groups of associated individuals, or by the State through the medium of a general law. In a general way we may say that the power of society and the moral worth of the citizens composing it are increased in direct proportion to the number of voluntary associations which accomplish works of private initiative. We are persuaded that except with reference to the defense of public order and justice the State should only intervene when private initiative fails to fulfill its duty. Thus the natural protector of the child is the family. When the father can not exercise it he can delegate to others the care of his child. When the child is without family it is received by charity; orphan asylums and societies of every sort undertake its care. But if the child is not taken in this way, the rôle of the State begins, and rather than to see the orphan perish the State adopts and rears it. In a similar way the State may intervene to protect the child against unworthy and vicious parents, or when the child has committed some offense. To return him to his family or to leave him free is to imperil public order, but there are open to him two classes of institutions—those established and administered by private initiative and others established by the State.

Mr. Picot showed that there can be no competition with the State in regard to the enactment of laws or their administration when it concerns those sent to prison or held absolutely under the control of the State. It is different, however, when it concerns questions of education and guardianship of the young offenders or abandoned children. The enormous resources of the State can not effect what can be done only through the power of personality—through the contact of two souls. In such work it is the duty of the State to develop and stimulate private initiative, not to discourage it. Its most noble rôle is not to be the patron itself, but to cause works of aid and guardianship to develop around it.

There are some forms of work which charity can create freely without coming into relation with the State; in matters of patronage, however, it is different. When it concerns prisons, houses of correction, on the other hand, the State is in its own field, and may refuse to permit a society to visit prisoners in their cells or young offenders in a colony. Or, without forbidding such visits, officials may multiply obstacles.

There is a task still more delicate. The State may assume to inspect, and to that extent control aid or guardian societies; and it is in relation to this question of control that the controversy as to the intervention of the powers of the State has arisen. There is a series

of private establishments, asylums, homes for orphans, protectories, reformatories. Shall these societies, created outside of the State and with the aid of private funds and living on their own resources, be subject to the inspection of public functionaries? In answering this question Mr. Picot pointed out the difference between inspection and control. Every school, for example, even those which are private, should be open to the inspector and answer his questions. Every workshop should be open to the factory inspector, and the inviolability of the domicile should not be opposed to these legal inspections, This concession is made to public interest.

Very different, on the other hand, is the question of the control by the State with reference to the interior administration, a control which has not been established by law.

An important question entering into this discussion is whether the private institution receives any grant or appropriation from the State. When this is the case reciprocal relations are established. The State, when it places a juvenile offender in a reformatory institution or protectory partly supported by public funds, has the right to see that the institution fulfills its duties. If this right is denied the State may properly refuse the grant.

Mr. Schaffroth, inspector of prisons of Berne, not only held that the work of guardianship should be under control of the State, but that in general it should be organized by the State with the support of private activity. In the case of conditional liberation the State should itself directly exercise the supervision necessary, and, in case the conduct of the paroled person requires it, should order his return to prison.

The Baron de Lévay, the general reviewer, presented an excellent analysis of the reports and formulated the conclusions which were adopted by the section.

Mr. Roger Trousselle, of Paris, was appointed reporter to the general assembly.

In the meeting of the general assembly Mr. Ferdinand Dreyfus, of France, said there should be cordial alliance between aid societies and the State. There should be reciprocal concession. The State owes to these societies its protection, its grants; but these societies, on the other side, must place themselves, as Mr. Felix Voisin has said, under the ægis of the State.

The conclusions presented by Baron de Lévay, slightly amended by Mr. Trousselle, were adopted.

RESOLUTIONS AS TO THE RELATION OF THE STATE TO AID SOCIETIES.

The congress holds that works of patronage under private initiative should be submitted to the control of the State, especially with reference to their financial, material, and economic administration, but that the State should not interfere as to the methods and work designed to secure the moral reformation of the wards or beneficiaries of such societies.

To favor the development of works of aid and guardian societies (patronage) a reciprocal alliance should be established between the State and such societies.

FOURTH SECTION.

CHILDREN AND MINORS.

President: Mr. E. Brusa.

Vice-presidents: Messrs. D. Drill, Dreyfus, Heymann, Sarage, Pittard, Gardell, Williamson, Miss Bartlett, and Mr. Mercier.

Secretary: Dr. Armand Polgár.

Associate secretaries: Messrs. Dr. Harry Berczeli, Dr. Frederick Kelemann, Doctor Brosswimmer, and Mr. André Gorse.

CHILDREN OF PRISONERS.

Question 1.—Should the State take measures to protect the children of prisoners, and what measures would be most effective?

Seven reports were presented on this question as follows: Austria: Miss Lydia v. Wolfring, president of the Pestalozzi Society for the Protection of Children and Youth. France: Mr. Louis Rivière, Paris. Hungary: Eugene de Balogh, professor at the University of Budapest, member of the Hungarian Academy of Sciences, and Mr. Alexander Mészáros. Italy: Mr. Giustino Sanctis, inspector-general of Italian prisons, and Mr. A. Stoppato, professor of criminal law and penal procedure at the University of Bologna. Russia: Mr. Pierre Poustoroslew, professor at the Imperial University at Iouriew. Mr. Eugene de Balogh was the general reviewer.

Previous congresses have considered the aid and guardianship which it is necessary to extend to the children of prisoners. Attention was called to this subject in 1878 at the conference at Stockholm by Doctor Guillaume, the general secretary of the International Prison Congress. At the congress of St. Petersburg in 1890 it was resolved that societies of patronage should acquaint themselves with the families of the prisoners before they are liberated, to establish again as much as possible friendly relations between the prisoner and his family, and to assist the family of the prisoner in exceptional cases if his imprisonment has caused grave suffering to children, the aged, and infirm.

At the International Congress of Children's Aid Societies held at Antwerp in 1890, on motion of Mr. Le Jeune, the eminent minister of state of Belgium, it was decided that relief work should also include the members of families of prisoners.

Five of the seven reporters took the broad ground that the State should not only concern itself with the neglected children of prisoners but with children of every kind who are physically or morally neglected. Mr. Mészáros, of Hungary, said that 30,000 individuals every year are condemned to imprisonment in Hungary. Most of them leave children in conditions which are precarious. An important question also is whether children should be left under the guardianship of parents who have become habitual criminals. Mr. Mészáros thought that if the parents of minor children are condemned to imprisonment the court pronouncing the sentence should have at the same time the right of determining whether there is need of taking care of the children, and that when such is the case the court should be authorized to send the children to an asylum or to a house of correction. Competent authority should also decide after the sentence has been served whether children should be recommitted to their parents.

Mr. Stoppato, of Italy, showed that the children of prisoners generally grow up in an environment not favorable to the formation of moral qualities. It is a work of humanity to protect them against such influences; it is also a duty of the highest importance, in the interest of social defense against crime.

Mr. De Sanctis, so well known for his admirable work at the reformatory at Pisa and for his contributions to the literature of penology, spoke from long experience when he painted a vivid picture of the sad state of children whose fathers are in prison and who are suffered to fall into idleness, mendicancy, and larceny at an early age. At different times Mr. De Sanctis has made appeals for children in this condition. He holds that it is the duty of the State to protect the children of prisoners.

This subject of the care of the children of prisoners has received more attention perhaps in Italy than elsewhere, the work having been largely stimulated by the generous labor of Senator Beltrani-Scalia. Two societies have been formed in Italy for the care of prisoners' children, one at Valle di Pompei and the other at Rome. The first was established ten years ago, due to the initiative of Mr. Bartholo-Longo, who obtained sufficient money to build a house and provide an income for the support of about 70 children. Speaking of this asylum Mr. De Sanctis says:

"These charitable efforts, crowned with success, have won the warm praise of competent persons." But while recognizing this Mr. De Sanctis regards the name of the institution, "Asylum for the Children of Prisoners" (Ospizio pei figli dei carcerati), as unfortunate. This defect is increased by the advertising to secure subscriptions in which the names and photographs of the protégés are given with an account of the crimes, often horrible, of their parents. What effect will these recitals of horror have upon the minds of these unfortu-

nate children? What educative value do they have, and may they not injure the future of these unfortunates?

The second of these organizations was founded through the efforts of Senator Beltrani-Scalia, and bears the name of "National Society for the Aid of the Neglected Children of Prisoners" (Opera pia nazionale per assistere i filiuoli derelitti dei condannati). This institution was founded about nine years ago and was incorporated in 1897. Commander Alessandro Doria, director-general of prisons in Italy, has given assiduous and untiring efforts to promote the work of this society. He has been able to accumulate a capital of 240,000 francs ($48,000) for this work. Commander Doria does not favor, either from economic or moral reasons, the establishment of a special asylum for the children of prisoners. Instead, the 140 children of prisoners have been sent to institutions in different parts of Italy. Eighty of these are supported gratuitously by the administration of the establishments to which they have been sent and 60 at the expense of the national society. These children are the object of tender and affectionate care. Mr. De Sanctis gives statistics as to the health, conduct, and industrial and educational standing of these children.

Miss Lydia von Wolfring of Vienna thought that existing institutions for the protection of children should be developed and their functions be extended when necessary so as to provide for the children of prisoners. She suggested that in charitable establishments, whether municipal or private, in crèches, orphan asylums, and similar institutions, a certain number of places should be reserved for children whose parents are in prison and who by reason of this must live on public charity. Children whose natural protector or breadwinner has been condemned to imprisonment exceeding six months should be placed under guardianship. The State should establish funds for the relief or placing out of such children. A portion of the earnings of prisoners or of the fines imposed by the State, Miss von Wolfring thinks, might be devoted to this purpose.

In his excellent paper, Mr. Louis Riviére said that in modern jurisprudence the sentence is not imposed on the family but upon the individual, and that no member of the family should be included in it. In some countries the principle of an indemnity for victims of judicial errors, and even in favor of accused persons subsequently found to be innocent, is provided for by law, but nowhere has any public aid for the family of the prisoner been accepted as the duty of the State. Without raising the question of the legal sanction of such aid by the State, we may admit it is a duty to aid every person who by reason of misfortune has need of it, and the children or families of prisoners come under this class. No public or private organization can better fulfill this duty than the prisoners' aid society. By the visits of its members in the prisons it discovers cases most worthy

of attention, and it is affiliated with other societies organized for special purposes whose co-operation it can invite. The State should not intervene except in a subsidiary manner, and when private charity can not effect the same result. It is desirable that prisoners' aid societies should designate some visitor or patron for each prisoner's family in which there are minor children. This visitor should immediately proceed to examine the situation of each one of the children. He should ascertain whether the mother can fulfill the duties which fall upon her, or in case both parents are wanting, if there is an uncle or some other relative who can watch over these children; what are the moral conditions of the family, etc. Sometimes the visitor must take serious measures and assure to the child the benefit of preventive education before it falls into crime. There are numerous institutions to which such children can be sent when that seems the best disposition to be made of them. When resistance is encountered in the family it may be necessary in special cases for the visitor to invoke official authority to secure the remedies provided by law.

Mr. Balogh shared the opinion of Mr. Rivière that the first duty of caring for the children of prisoners should be fulfilled by the aid and guardian societies; but he called attention to the fact that there are many countries in which this aid work is very imperfectly organized or where it hardly exists, and in some cases where the society is organized it is not very active. It is also true that children of prisoners often come from an environment or from influences more or less vicious, and they need the correction which the State may furnish.

The resolution adopted on this question was incorporated as a part of the conclusion reached in answer to the fourth question.

ESTABLISHMENTS FOR OBSERVATION OF YOUNG DELINQUENTS.

Question 2.—Is there need for establishing institutions of observation for young delinquents, vicious children, or those morally neglected; if so, how should they be organized?

Ten reports were presented as follows: Austria: Miss Lydia V. Wolfring, president of the Pestalozzi-Verein for the Protection of Children and Youth, Vienna. Belgium: A communication made in the name of the Association for the Protection of Children and for Aiding Prisoners, Vagrants, and Insane in the Arrondissement of Verviers, rendered by Mr. Jules Cerexhe, director of the section for the protection of children, Verviers. Denmark: Pastor Nissen, chaplain of the prison at Naesby (Soroe), Denmark. France: Mr. Jules Jolly, advocate at the cour d'appel, and Mr. H. Rollet, advocate at the cour d'appel of Paris, director of the review "L'Enfant." Hun-

gary: Mr. Alexander Mészáros and Dr. Edmond Nèmeth, physician at the tribunal of Budapest. Italy: Mr. Giustino De Sanctis, inspector-general of prisons in Italy. Holland: Dr. J. Falkenburg, physician at the reform school at Alkmaar. Russia: Mr. A. Moldenhawer, president of the tribunal at Warsaw. Dr. Jeno Konrád was the reviewer.

All the writers on this subject agreed in answering affirmatively the first part of the question, namely, that establishments for the observation of young delinquents and for vicious and morally neglected children should be founded.

Mr. Jolly laid emphasis upon the necessity of substituting the idea of education for that of expiation. The ideal always to be held in mind as a condition of success is that of individual treatment of youthful or vicious delinquents. Nevertheless, this ideal permits of a certain number of categories corresponding to different establishments and different methods of treatment. Upon what basis shall the selection be made? The two simplest methods are a selection by age or based on the nature of the offense. In France the selection based on age is adopted. There are reform schools for children under 12, penitentiary colonies for those above 12, and there is a third type, correctional colonies for minors condemned to more than two years' imprisonment. This classification is excellent, but it is insufficient because it takes no account of individual tendencies.

As to the selection based on the nature of the offense, it has been proposed at different periods in France, but to-day has few advocates. Experience has proved that it is essentially artificial and that frequently young beggars are more degenerate than young murderers. The most rational selection, that which most permits of individual treatment, is that which takes as a basis the moral character of the children, their degree of degeneracy or development. But it is necessary to submit delinquent minors to prolonged observation. The examination should be essentially psychological and medical. These establishments may be public or private institutions accepted by the Government. But the most important question is that of the regimen. Mr. Jolly favored complete separation of these offenders. He recognizes the fact, however, that character is not fully revealed under the cellular system. There should be therefore a certain number of sections corresponding to different types of correctional institutions for those who have already submitted to the preliminary test. Children sent to the establishment of observation should stay there from three to six months. The first period of separate confinement may be from one to three months. In the second period they may be properly employed at working in the open air, and separation need only be maintained at night. When

the term of observation is completed the child may be released conditionally or sent to some correctional establishment for education.

Mr. Cerexhe, of Verviers, Belgium, gave an interesting account of the work of the society of which he is a director, especially that portion of it relating to children. All classes of children, some of them with drunken or criminal parents and living in a corrupting environment, come under their care. Some of these children have been placed out. It is not always easy to find the right places for those who need a special discipline. They have established a system of little families or colonies, intermediate between the method of placing out entirely in families and that of gathering them in large establishments.

The president of this association at Verviers suggested the idea of these little colonies, and he generously installed the first one upon one of his estates not far from his own residence. This is a family composed of a dozen children, that being the maximum number, conducted by a matron and under the supervision of a member of the society. The commissioner for the United States visited this little colony in 1900 and was much impressed with the natural and healthful conditions, both moral and physical, under which these children live. Four other colonies have been organized in the same way with a classification according to age and other considerations. These small colonies give excellent opportunity for the observation and study as well as the education of children, and the results have been very encouraging.

Doctor Falkenburg, of Holland, believes that experience has shown that almost half of the minor children sent to reform schools are very difficult of education. It is important to preserve the others from psychical and moral contagion. For this purpose an establishment of observation is essential.

Mr. De Sanctis held that the study of prisoners is often neglected or very superficial, yet it is indispensable. The study of offenders should begin in the chambers of the judge, and the doctor should co-operate with the director of the institution to which young offenders are committed. He did not find any special value in establishing special asylums for this purpose. Let all the means be given to the directors of reformatories to make the classifications and selections they desire and special asylums will be unnecessary.

Pastor Nissen of Denmark said that the Christian Association for the Saving of Neglected Children had found it necessary to have an establishment of observation and had therefore founded one on a little island of Ourö near Holbak. The result has been so satisfactory that three similar institutions have been established by the same society, and another organization has adopted the same method.

In these institutions of observation the child is studied from its physical, intellectual, and moral standpoint. The end of these institutions may be stated in a few words: It is to place the child in an environment which will be particularly favorable to him; to assure to him a period of repose and development sufficiently long to gain his confidence. It gives an opportunity to acquire knowledge of him and to know his qualities and defects. The directors of the society are in much better position to decide on the placing out of children after this period of observation and training.

Miss Lydia v. Wolfring, of Vienna, one of the noble workers in the field of child saving and child education in Vienna, presented one of the best reports on this subject. She would place every minor who is in conflict with the penal law, or morally depraved, in an institution for observation which should be specially organized for this purpose. She pointed out the defects of the mere system of isolating such children in cells and having them questioned by the director or chaplain of the institution at stated times. The character of an inmate can not be ascertained by such a system of questions made under such conditions. It is more important to create a home where the spirit of the family shall prevail, with the groups of children or of youth placed under the watch care of a couple chosen and educated for this purpose. This colony of separate cottages should be placed in the country. At its head there should be a competent specialist in matters of psycho-therapeutics and of psycho-pedagogy, who should daily observe his pupils, their manner of behavior one toward the other, their relations of confidence with their equals. The perfunctory formalism of a penal institution should be entirely absent. These should be the observation stations which, under competent investigators, would avoid the false deductions, metaphysical and otherwise, which lead to erroneous results in the study of the causes of criminality among youth.

Doctor Nemeth, of Budapest, likewise pointed out that the observation and treatment necessary could not be obtained in penitentiary establishments nor in prisons, but only in institutions for observation especially organized for this purpose. The oversight should be medical, for only the physician is capable of appreciating the infirmities of the individual in the course of development and of treating them as they should be treated. Children, after an indeterminate period in these institutions, should be under watch care for at least a year after their liberation.

Mr. Mészáros regarded such institutions of observation as important not only for those children who are brought into the courts but as a part of the preventive agencies for saving those who are not yet criminals, but who may become so if neglected. Domestic and industrial education should be introduced in such institutions. When

necessary, children should be sent to some house or home of correction—not as a punishment, but as a means of education and development.

Mr. Rollet also agreed with Miss Wolfring and others that such institutions of observation, the necessity of which was evident, should not be conducted on the cellular plan, for a child can not be seriously observed in such a situation. The child must be observed under conditions of relative liberty and of social life to discover its qualities and defects. They should be divided into small groups, submitted to the watch care of competent educators and physicians. The length of the commitment should not be fixed in advance; they should be detained long enough to ascertain their character. It is desirable that these establishments should be created by the State, by local authorities, and private benevolence.

Judge Moldenhawer, of Russia, favored isolation during a period of observation, but it should not be carried too far. This should form a part of the system of establishments to which children are sent under arrest. For other classes of children, the neglected or vicious, these intermediate establishments should be organized on the graded or progressive system.

The different points of view, both of difference and agreement, were well brought out in the résumé of the reviewer, Dr. Konrád.

DISCUSSION.

Judge Albanal, of Paris, said that at Paris for a dozen years an institution of observation had been established, but it is confined to delinquent children—children who can not be returned to their parents because they do not offer sufficient guaranty that they can control them, or children who have committed a serious offense. After the period of observation is terminated, the results are communicated to the magistrate. During this period of observation the magistrate gains additional light, as he had himself gained in hundreds of cases through special biological examinations to find out whether the child was normal, degenerate, or even sick. These institutions should be multiplied in different countries. Observation should be committed to competent biologists and instructors.

As to children who have not violated the law, it is more difficult to deal with them. It would be well if the law permitted administrative and judicial authority to intervene even when they have good parents.

Mr. Drill, of Russia, after giving an interesting account of the treatment of delinquent minors in Russia, spoke of the expense involved in establishing great numbers of observation schools, especially if they had to be supported by private contributions; he did not think them necessary.

Doctor Forel, of Switzerland, said that many vicious children were abnormal and some of them were incurable. The establishment of observation would help to distinguish between the normal and the abnormal.

Mr. Ferdinand Dreyfus, of Paris, distrusted the "incorrigible" classifications of science. In the matter of children it is difficult to establish a standard for social measures. The question of what caused their arrest is not the important fact. There are children who are convicted of some small offense who are far less dangerous than neglected children who have not come under the grasp of the law. Science would be unwise to declare that children are incorrigible. We should never write above the walls of our children's asylums the words, "All hope abandon here."

Doctor Forel said he had been misunderstood. He would not declare in advance any children incorrigible. He regarded truly vicious children as diseased, and to ascertain whether they are incurable or not, or whether they are simply badly brought up, observation must be made by competent persons. Science does not judge from preconceived ideas. It will not be denied that idiots are incurable. It goes without saying that they are not to be condemned or sentenced, but simply treated and improved as abnormal.

Judge Albanal was appointed reporter to the general assembly, and the resolutions he presented were adopted by the section.

In the general session the resolutions were slightly modified and, as adopted, were as follows:

RESOLUTIONS AS TO ESTABLISHMENTS OF OBSERVATION FOR YOUNG DELINQUENTS.

1. Provision should be made for the preliminary observation, in institutions or special quarters, of delinquent children, and those morally neglected, vicious, or undisciplined, who may be confided to public authority by their parents or those having legal authority over them.

2. These institutions or quarters should be placed under the direction of competent instructors and physicians, who should examine the child morally and biologically.

3. These institutions should be organized after models already created, such as the Théophile Roussel School of Paris, and other schools of prevention of the same kind, and on the following principles:

(*a*) The establishment of observation should be constructed with pavilions or cottages, with seections for congregate life. It should, however, permit of the placing of children in families for general instruction and also for agricultural and industrial education.

(*b*) The institution may be independent, supported by the State and attached to the proper department.

(*c*) The establishment should be divided into two principal sections—one of psychiatry and one of pedagogy. A professional man should be at the head of each of these sections. The direction of the institution should be under these heads of departments and instructors. The personnel of the institution should be composed of doctors, teachers, and attendants.

(*d*) During observation, isolation should be avoided. On the contrary, the two principal sections should study individual children in an all-round way upon the basis of their life together, and under friendly and familiar relations.

(*e*) The maximum duration for the period of observation is fixed at six months.

TREATMENT OF JUVENILE DELINQUENTS.

Question 3.—Under the laws of certain States imprisonment is provided for a certain class of juvenile delinquents. What system should be applied to them? Should such condemned minors be confined under the system of cellular imprisonment for the entire duration of their sentence or for but a part of it?

Fifteen reports presented on this question were as follows: Austria: Mr. Antoine Marcovich, director-general of the penitentiary at Graz. France: Henri Joly, member of the Academy of Moral and Political Sciences, honorary dean of the faculty, and president of the General Society of Prisons. Great Britain: Miss Rosa M. Barrett, president of the Irish Women's Temperance Union; Miss Lucy Bartlett; Mr. Edward Grubb, secretary of the Howard Association, London, and Sir Andrew Reed. Hungary: Mr. Charles Andráscik, house director of the Royal Hungarian House of Correction at Kolózsvár; Joseph Bodó, house director of the House of Correction at Kolózsvár; Dr. François Finkey, professor of the faculty of law at Sárospatok; Mr. Joseph Kiss, house director, House of Correction at Kolózsvár; Dr. Ernest Kovács, deputy and counselor at law; Mr. Alexander Mészáros, house director and deputy director. Italy: Mr. Giustino De Sanctis, inspector-general of prisons in Italy. Switzerland: Friedrich Grossen, director of the correctional school of education at Trachselwald. United States: Samuel J. Barrows, corresponding secretary of the Prison Association of New York and commissioner for the United States on the International Prison Commission. Dr. Adolphe de Lukács, professor at the University of Kolózsvár, was the reviewer.

Doctor de Lukács being detained by illness, his review was presented and his report read by Mr. Fournier.

The great interest centering in the question of the legal treatment of children who have come in the grasp of the law was seen in the

fifteen reports presented on this question. In fact all the discussions in the fourth section relating to children and preventive work were marked by deep interest and by remarkable unanimity as to principles. The reports present a valuable body of information concerning the methods in vogue in different countries. Six of these reports were from Hungary. In no country is deeper interest taken in the work of child saving. Three of these reports were written by house directors of the institution at Kolozsvár. One received a fine impression of the personality of the officers of this institution in reading three such excellent papers. It is interesting to observe that these officers reject the cellular system as the best method of treating young offenders, and for much the same reasons which were presented in the study of the second question; namely, because isolation does not furnish a sufficient opportunity for studying or guiding child development. Shut up within the four walls of the cell, they lack not only the opportunity of play in the open air, so necessary to their physical development, but also occasions for systematic education and the advantage of a family life.

Mr. Andráscik remarked that it is true that to place children in cells will reduce the number of offenses committed in the institution, but it is precisely these offenses and violation of rules which suggest the remedies necessary, the means for a rational and successful education. The same writer continues: "I hold in the most positive manner that cellular imprisonment for delinquent minors is in flagrant contradiction to all principles of education. It deprives the child of moral influences necessary for its development. It is absolutely impossible to direct industrial and professional work under this system. A child placed in a cell, lacking every opportunity to reveal involuntarily his moral defects and passions, becomes naturally silent. It is impossible to look into his soul and to take account of the passions which disturb it. If we do not know the nature of the disease, how can it be treated with success?"

Dr. François Finkey, of Hungary, approaching the subject from the standpoint of the jurist, favored special prisons for young delinquents. He favored cellular confinement only for a limited time. Instruction in trade or agriculture should be obligatory.

Mr. Grossen, of Switzerland, called attention to the great moral principles which should animate this correctional work, to the necessity of having directors of high character and employees fitted for their task. Every establishment for children should be a house which corrects and not a house of correction—a home of education and reform—and every pupil should be not merely a simple number, but an object of solicitude and of sympathy. It is not possible to avoid all the dangers of association. Youths are exposed to them in

school, in their sports, in the university, and in the army. It is impossible to avoid this. The great thing is to fortify the will of the young so that they may have sufficient energy to resist evil. Cellular seclusion, however excellent for the adult, is injurious for the child.

Mr. De Sanctis held that cellular imprisonment for minors for a long period is a source of physical and moral danger. Education should destroy the antisocial instinct and should teach the child to live normaly in company with his fellow-creatures, and to exercise his own rights while respecting those of others. To effect this end life in common is necessary.

Mr. De Sanctis urged that children under 16 years of age should not be condemned to prison at all. A child, he said, who during the first years of his youth is driven to crime is the most unfortunate being, and for that reason has a right to the greatest protection. Both humanity and considerations of social defense require this protection. This end is not attained by prison. In condemning many thousand minors annually to prisons we do not improve society—we augment the legion of criminals. It may be said with certainty that half of the youths who are convicted, if they are not subjected to rational treatment, will fall again into crime. In his excellent work, entitled "Città dolenti e genti dolorose," Mr. De Sanctis presents statistics to show the vast number of minors that are annually condemned. Instead of sending them to prison, under the age of 16, they should be sent to homes or asylums, where they may be properly educated and released, or placed out under proper guardianship.

It is evident that the very arguments brought out against the limitations of the cellular system for minors greatly weaken the arguments advanced for it in the case of adults. Mr. H. Joly has doubtless conceived the logical consequences of such admissions. Of all the reporters on this question, he alone did not consider it necessary to abandon the principle and practice of cellular confinement when applied to children. Regarding the contamination which may come through association as the greatest danger to be averted, and believing therefore in the strict individual treatment of each offender, Mr. Joly holds logically that "the cellular system is still more necessary for youthful delinquents than for adults, for the first are much more susceptible to impulses than are the latter. If we are not to impair the influence of individual separation it should be continued until conditional liberation is granted."

A child, however, released under such circumstances, may enter at once into contaminated associations without training to resist them, without the moral impulses which may be developed through good association.

In an able report Miss Rosa M. Barrett presented facts and figures to show the increase in the number of youthful offenders from whom the great number of recidivists are recruited. Her report covered indeed the whole subject of the prevention and treatment of juvenile offenders, without embodying definite answers to the questions presented in the fourth section. This valuable monograph showed a firm grasp of the whole question, and an enlightened confidence in educational and preventive agencies.

The report on the children's courts in the United States, as submitted by the commissioner for the United States, Mr. S. J. Barrows, and the personal observations of Miss Lucy Bartlett, communicated to the congress after a visit to the United States, were received with great interest and had a perceptible influence in the discussions and conclusions of this section. Doctor Guillaume, the secretary of the congress, in the course of discussion in the fourth section warmly commended the system of the children's courts and congratulated the United States, which had already suggested so many practical ideas, in having inaugurated a reform so complete, which assigns to the judge not only the task of pronouncing the sentence but the care of watching over its execution and of being the educator of the youth brought before him. He moved that a resolution calling attention to these reports form a part of the resolutions of the section. "Such a resolution," he said, "will prove to American penologists that the progress realized in the United States will always find in old Europe a sympathetic echo, and that it is applauded as it deserves to be by the members of the International Prison Congress."

RESOLUTIONS AS TO JUVENILE DELINQUENTS.

I. 1. All young criminals during the entire term of their penalty in prison should be rigorously separated from condemned adults. For this purpose special quarters or prisons should be provided particularly designed to receive young prisoners, and to which they should exclusively be committed.

2. Such prisons should be specialized according to the age and character of those committed to them.

3. The cellular system is to be recommended only with reference to those sentenced for a very short period—one month, for example, for those less than 16 years of age; three months for those above that age. As to those serving longer sentences, the execution of the sentence should follow the principles of the gradual system. Under this system cellular confinement should only be applied for a very short time and simply to study the character of the prisoner. Advancement from one grade to another through three or four grades should be a feature of the classification. Those whose conduct is

excellent may be released conditionally after having served two-thirds (eventually the half) of their sentence.

4. The fundamental principles which should govern the occupation of young prisoners are the following:

(*a*) During the entire period of their sentence all prisoners should be occupied continually, except at mealtime and during sleeping hours.

(*b*) Work should be obligatory for all young prisoners without exception.

(*c*) Those sentenced to a long term should be thoroughly taught some trade which will assure them an honest and certain livelihood.

(*d*) Young prisoners should be occupied not only at mechanical industries, but, when serving a long sentence, should work in the open air at gardening and agriculture. All prisoners not confined in their cells may be occupied with horticulture.

(*e*) Gymnastic and military exercises may be introduced into the daily programme.

5. Instruction should be obligatory for all prisoners. Those under short sentences should receive moral and religious instruction. Those sentenced to longer periods should be taught writing and reading and the four rules of arithmetic. Prisoners particularly fitted for such instruction may be taught theories of government, practical ethics, and theories of law and civil duty.

II. The Seventh International Prison Congress, while recognizing the efforts to accomplish in different countries of Europe the withdrawal of children arraigned in court from the dangers of publicity, and in view of the partial results already obtained by the committees for the protection of children in Belgium and France, commends to governments the study of a judicial organization especially adapted to children and the extension of systems resembling that of probation applied in the United States.

III. The Seventh International Prison Congress expresses the hope that the number of countries in which the prison system is applied to children arraigned in court will diminish as rapidly as possible.

NONCRIMINAL BUT NEGLECTED CHILDREN.

Question 4.—Outside of the ordinary means of education, what are the most effective measures to insure the preservation of children morally neglected and the reform of vicious children who have not committed any punishable offense?

There were twelve reports presented on this question, as follows: Belgium: Mr. Jules Cerexhe, director for the section for the protection of children, Verviers, made in the name of the Association for the Protection of Children and for Aiding Prisoners, Vagrants,

and Insane in the Arrondissement of Verviers. France: Mr. Berthélemy, professor of the faculty of law at the University of Paris, and Mr. Camille Gramaccini, honorary director of the penitentiary establishments of St. Fiacre (Seine-et-Marne). Germany: Dr. Wolfgang Heinze, magistrate at Ueberlingen, Grande Duchy of Baden. Holland: Madame M. Hofstede, of The Hague. Hungary: Mr. François Martzi, house director of the house of correction, and Dr. Paul Ranschburg, specialist in nervous diseases, director of the laboratory of psychology of the Royal Hungarian Pathological Institute of Budapest. Italy: Mr. Giustino De Sanctis, inspector-general of prisons in Italy; and Mr. Ugo Conti, professor of criminal law and penal procedure at the University of Cagliari. Norway: Mr. J. Chr. Hagen, director of the institution for correctional education at Falstad. Russia: Mr. Dimitri Drill, counselor to the ministery of justice, St. Petersburg. United States: Mr. Michel Heymann, superintendent of the Jewish Orphans' Home, New Orleans, Louisiana. Mr. Rottenbiller was the reviewer.

The questions of the fourth section relating to the treatment of children were so closely connected that a number of the reporters treated them together. The fourth section likewise considered the first and fourth questions together.

Professor Berthélemy, professor of law at the University of Paris, said that most of the penological questions relative to childhood are only questions of pedagogy, and that is true of this question. Its solution can not therefore be absolute. When the question concerns vicious children, instead of those of normal character, the system of placing out in families is inadequate. In spite of all the advantages which we recognize for that system when applied to normal children its weaknesses as applied to vicious children are evident. It not only does not furnish the necessary discipline, but it endangers, through contamination, other children of the family or neighborhood. Special establishments, including reform schools and colonies, should be provided for the education of such children. The reform schools should be sufficiently numerous so that the number of pupils can be limited to a small number. Children should be grouped according to age and not according to their aptitudes. The surveillance should be committed as much as possible to women; surveillance is even more important than instruction, which should, however, be industrial and moral. Education in the institution should be supplemented by guardianship after release.

Mr. Gramaccini gave an account of the development of work for delinquent children in France. In the reformatory institutions the march of progress is visible. Corporal punishment has been abolished; the regimen improved, the costume made to conform to that

of ordinary workers and the education of the smallest committed to women. Mr. Gramaccini gave an interesting characterization of the different institutions, or organizations, in France which are devoted to children, including a brief account of placing out.

Dr. Wolfgang Heinze, with characteristic German thoroughness, gave a review of the legal provisions existing in England, France, Belgium, and Germany relating to the question. One must not generalize, he said, too much in this matter. Differences in race, history, religious conceptions, and economic conditions should be recognized; it is not possible to apply the same method to all countries. There are also fundamental differences of law which need to be considered. Nevertheless Doctor Heinze, as the result of his valuable study, concluded that the most efficacious means to employ for the improvement of vicious children who have not been previously convicted consists in providing means for their correction through education. The placing of a child in such an institution should only be done through an independent court and its release be made through administrative authority. Its education should be placed under the surveillance of the executive power of the State. This education may be given in a good family or in some institution of correction. Great attention must be paid to moral education and with special reference to the individual child. If possible, institutions especially designed for neglected children who have not previously been convicted should be established.

Madame Hofstede, of The Hague, gave a brief account of the development of child-saving work in Holland.

Mr. Martzi, of Hungary, confined himself to a consideration of institutions of correction under state authority. He did not hesitate to compare the character, regimen, and results of these public institutions with those conducted by private charity. His report, written from his long experience as director of a house of correction for the young, was marked by great sympathy toward neglected children, and a strong confidence in their corrigibility.

Doctor Ranschburg, of Budapest, called attention to the large number of feeble-minded and imbecile children, one to every seven or eight hundred of the population. Feeble-mindedness furnishes a large percentage of the degenerate and criminal minors. This fact is supported by examinations made in houses of correction for the young. He laid stress upon prophylactic and correctional measures, and called attention to the provisions of the Hungarian laws of 1901, with reference to neglected children, which he considers very good.

Mr. De Sanctis, of Italy, said that reformatories for vicious children should rest upon principles of sound pedagogy. They should have room and resources, according to their different needs, and he

laid much stress upon the character of the personnel. He paid a compliment to the work of Alessandro Doria, the director-general of prisons in Italy, in reorganizing the Italian institutions of correction through education. New rules have been established and new measures taken to secure a better grade of guards and officers. He quoted from Director Doria to the effect that institutions designed to receive young offenders should not even resemble prisons. The institution should be a place of protection and a place of moral cure, accomplishing its purpose through an education which is healing, wise, and vigilant, strengthening the heart and the mind, and conducting young souls by gradual steps to their regeneration. Such institutions can not develop normally and fulfill their purpose without officers of the highest character.

Mr. J. Hagen, of Norway, director of the institution for corrective education of Falstad, gave an account of the more recent modifications in the law of Norway, September 1, 1900, with reference to neglected children. He called attention to the necessity of studying each child from the psychological as well as from the physiological standpoint. He had often observed in the course of his career as a teacher that moral errors and offenses which had caused children to be placed in correctional institutions were due to nervous or psychopathic conditions. Among preventive means he suggested manual-training schools, with recreation parks.

Prof. Ugo Conti, of Italy, said that the protection of neglected children is a function of the state. Vicious minors can be divided into three categories: Delinquent minors who have committed actual offenses; youth who are vagabonds and mendicants; those who rebel against domestic authority. The three classes easily run into each other. Up to the age of 15 years there should be no question of penal procedure for these young offenders, but only that of education. Reformatories should be provided for vicious minors.

As to vicious and neglected youth who have not been convicted under the law, Professor Conti holds that it is the obligation of the state to protect them. They may be provisionally treated in a house of refuge, to be followed by placing out in families.

Mr. Drill, solicitor for the ministry of justice of Russia, spoke of the influence of environment, and especially of poverty and a low standard of living, as leading to infractions against public order. He called attention to the necessity of ameliorating the painful conditions of existence of the working classes, to provide them with sanitary houses and good food, with opportunity for rest, and elevating pleasures.

Mr. Michel Heymann, of New Orleans, gave an account of various aspects of child-saving work in the United States.

RESOLUTIONS AS TO NEGLECTED CHILDREN.

The congress resolved that—

I. 1. Public authority should favor the placing of children in families.

2. Special schools for the vicious should be established when placing in families is insufficient.

3. Medico-pedagogic institutions are required for vicious, abnormal, or degenerate children.

II. (This paragraph embodied the conclusion with reference to the first question of the fourth section.) When parents have forfeited their paternal authority it is the office of the state to protect and preserve the children who may be in conditions of material or moral neglect, or who are in danger of being brought there (and this includes the morally neglected children of prisoners). The state should have the assistance of local and private charity and guardian societies.

III. To preserve children morally neglected, but not delinquent under the law, whose parents, owing to the condition of their lives, can not devote themselves to their children as much as they would themselves desire, we should aid in the education of children by helping parents to ameliorate their lot.

IV. Special public or private establishments should be devoted to the education of children who need reformation. Such institutions may be colonies, reform schools, or houses of refuge.

The instruction should be industrial and moral. Reformatory education should be supplemented by guardianship after release.

V. Physiological psychology and psycho-pathology should have a place in the scheme of child-saving work.

Until special establishments and institutions are founded it is essential that—

1. The physician of correctional or reform establishments should be versed in psychiatry.

2. Members of the body of teachers of these institutions should be especially qualified for this work.

VI. As to the protection extended by the state we recognize as efficacious all those measures which under different conditions in each country have proved to be of value in the domain of child saving, and which give force and authority to an education conforming to the individuality of the child.

LECTURES BEFORE THE CONGRESS.

In addition to the regular discussions of the programme held in the special sections and in the general meetings of the congress the Hungarian Government arranged for the giving of five lectures on the following subjects:

Penological Progress, delivered in the German language by Dr. Friedrich von Engelberg, counselor of state, and director of the penitentiary at Mannheim, Germany.

Mr. P. Grimanelli, director of the prison administration of France, on Juvenile Delinquency, delivered in French.

Dr. G. Wlassics, of Budapest, on Hungary and the development of Penal Law, delivered in French.

Mr. Samuel J. Barrows, of New York, on Modern Tendencies in Child Saving in the United States, delivered in English.

Dr. Béla Földes, professor at the University of Budapest, on The Mathematical and Statistical Basis of Conviction, delivered in French.

Abstracts of these addresses follow:

HUNGARY AND THE DEVELOPMENT OF PENAL LAW.

Abstract of address by Dr. G. WLASSICS.

He who reads the history of Hungarian penal law, which has been going through a process of development for a thousand years, must feel that he is dealing with a nation which bears its own part in the intelligence of the civilized world. Here, as elsewhere, he will find the great boundaries which mark the gradual progress of penal law in general. The periods of progress, according to Prins, are the periods of common law, or reparation, up to the Middle Ages; the period of expiation or intimidation, up to the Renaissance; the period of humanity, and lastly the present scientific period. These may be called in general the times of retaliation, of the compounding of crime, and of the penal power of the State.

As one finds that Germanic laws and customs have been influenced by canonic and Roman law, so we too find traces of that influence in our legislation. Though but once—in the time of the Huñyadi—was a direct attempt ever made to implant some positive principles of the Roman law—an unsuccessful attempt—yet the effect of Roman

law was felt in legislation in Hungary during the Middle Ages, through the books containing the German and Italian codes of that epoch, especially from the eleventh to the sixteenth century, when a great number of Hungarians frequented the Italian universities. By historic research one might learn the names of our compatriots who frequented those universities at the height of their fame. It was through them that the theories of Clarus and Farinacius and other Italian savants were brought to us. Bodó, one of our early penologists, describes the old Hungarian practice and tells of certain theories, borrowed word for word from Italian jurisprudence and adopted into the national practice.

German law, in its integrity, was felt most strongly at the time of the constitution of the communities formed by Bavarian, Saxon, Flemish, and Italian immigrants who settled in this country. These people had the privilege of following the usages of their own laws, and later these laws, united with other royal privileges, became the order for social and municipal affairs.

Having embraced Christianity, our ancestors drew from it certain universal principles which apply in the domain of penal legislation, but that did not prevent the exertion of special national influence at every step of progress. Since the canonic law mitigated the excessively objective ideas of German law and increased the principle of responsibility, one readily sees its influence in our legislation, which borrows it in its original form.

The characteristics of common law marked Hungarian penal law in the middle ages. Still, several of our historians, in characterizing the age preceding the occupation, speak of it as a time in which the influence of common law was already felt in the penalties prescribed. It is certain that later common law had full authority. In the same manner, in the course of development, the " Friedengeld " of the Germans came into force. The fine became a sort of quittance for a breach of social order. Still later there were veritable penal taxes, which show the common-law character of the penal law. As the character of common law in the penal law among the Germans depended on the greater or less power of the central authority, the same was true among us. The strength or the weakness of the royal power exercised a decisive influence in this regard.

In any case it is certain that the Hungarian penal law attained its character thanks to the absence of the system of vassalage, which the Hungarian law never recognized, at least in the so-called European form. It would be superfluous to try to find positive theories in the ancient legislation of the country.

The undulating line of demarcation, objective and subjective, is the same here as with other nations. In the outset there was no

attempt to punish for attempted crime, but little by little the principle was adopted that an attempt should be punished, though less severely than the actual crime committed.

As to complicity, at first little attention was paid to accomplices, but gradually laws were framed to cover complicity, and in the later development of Hungarian practice a less severe penalty was inflicted on the accomplice than on the principal.

At the close of the middle ages the same sad and terrible spectacle was seen in Hungary as everywhere in Europe. The punishments inflicted were insupportably cruel. The innocent were condemned. Confiscation was arbitrary. In the reign of Ladislas II complaints became vehement. Codification of the laws was demanded. In the beginning of the sixteenth century, Etienne Verböczy was charged with the duty of collecting all the Hungarian laws then in force and the "Tripartitum" of Verböczy was the result. The effect of Roman and canon law is seen in his Tripartitum. That triple code is worthy to rank with the codes of law of other countries of that period. It expressly forbids mutilation of the body. The pain of death could be executed in but two ways: Decapitation by the sword or ax and hanging. It can be proved that the death penalty is executed proportionally much less frequently in Hungary than in France, England, Germany, or Austria.

During the succeeding centuries Hungary had special legislation for cities which were made up largely of foreigners who had settled there, and for the seignories. The authority of seignorial law was widespread. It embraced the commoners and the serfs. The lords of the manor were invested with the rights of the sword and judged the most serious cases. It was a very arbitrary system, or rather it was no system at all. It was natural therefore that the larger number of domains should hasten to carry out the Praxis Criminalis published by Ferdinand III for the territory of lower Austria in 1656. Though discussed by the Diet in 1728, that law was not adopted, yet it continued to exercise a great influence. The Constitutio Criminalis Theresiana, of 1768, had cruel penalties, but later the ordinances of Maria Theresa were marked with more humanity, since they ordered the payment of fines and abolished torture in trials for witchcraft.

It was literature which prepared the way for the transformation of the penal code. In the second half of the eighteenth century the bibliography of criminal law is very poor, though we may mention such names as Huszty, Bodó, and Gochetz. This great transformation did not spring from the writers of jurisprudence. It is a curious fact that generally political and democratic changes are not wrought by the children of democracy, but by those of the opposite camp. An example is seen in Mirabeau in the French Revolution and in Etienne Szechenyi in our national history. The great movement for

the reform of penal law which took place in the eighteenth century was started by philosophers and followed up by statesmen and publicists who brought it to victory.

Those who initiated the more recent penal reform which is seen in the domain of penal law were not recruited from the ranks of official penologists, but from doctors, psychiatres, alienists. In France they were such men as Diderot, d'Alembert, Voltaire, who, in the eighteenth century, fought in the front rank for reform. In Italy it was Beccaria and Filangieri. In Germany it was Hugo Grotius, Thomasius, and Wolf who scourged the penal laws with their unpitying and cruel intimidation. In England it was Bentham and Howard, and in Austria, Sonnenfels, whose names are intimately associated with the bitter fight for the abolition of the death sentence, or its restriction, and for the defense of individual liberty against tyranny exercised in the name of justice. The waves of light set in motion by such means ascended even to thrones and reached such rulers as Frederic the Great in Prussia, Leopold in Tuscany, Catherine II in Russia, and Joseph II in Austria, who upheld the reforms inaugurated.

We ourselves had some rare writers, Count Aloïs Batthyányi, Joseph Hajnŏczy, and Osvath, who took up the question of the reform of penal law, but their influence was not strong enough to awake Hungary from its lethargy. It was only in the beginning of the nineteenth century that Kölcsey and Etienne Szechenyi succeeded in giving a great impulse to the reform movement. Thanks to that and with the aid of the Hungarian Academy of Sciences we too may speak of our renaissance in criminal law.

That epoch extended to the middle of the century. Closely united with it are the names of François Deák, Louis Kossuth, Ladislas Szalay, Baron Joseph Eötvös, Barthélémy Szemere, François Pulszky, and many others. It was not the penologists Bodó, Huszty, or Gochetz who in the eighteenth century took up the question of what was necessary for the reform of the penal law, any more than in the nineteenth century it was the eminent jurists Vuchetich, Fabriczy, Szlemenics, who were at the head of the reformatory movement. Their places were taken by eminent statesmen and publicists, who were the soul of the reform.

However, even in the olden time we had some preparatory legislative work. It is with legitimate pride that we may mention the projected law of 1792. If at that date the literature of Hungary concerning penal law had exercised no wide influence in Europe the same could not be said of the universal current of the eighteenth century, whose influence is clearly seen in that act of 1792.

Alas, too often our princes totally ignored the diet and considered themselves the sole source of law. The Emperor Joseph II intro-

duced the codex Josephinicus into Hungary, but the nation feared for its liberty, so jealously guarded and so often imperilled, and it ordered, in 1791, that a commission should codify the different laws governing the various branches of justice. Such was their antipathy to Joseph II that one political party opposed certain liberal ideas simply because they had been promulgated by the Emperor himself. At the opening of the year 1790 it was still the custom to burn the laws relative to the division of land and the taking of a census of the people.

This frame of mind explains the motives for the codification of the laws in 1792. The chief party in favor of it held that reformation and prevention should be the true end of punishment; that vengeance was not a justifiable reason for punishment. From the point of view of equality before the law this was great progress, for it made no difference in application between the noble and the commoner. The death penalty was to be inflicted only for six crimes. The maximum time for which a person could be deprived of liberty was twelve years. The penalty of hard labor for life was to be given but for one offense. A house of correction for delinquent minors was provided, and domestic punishments only could be applied from the age of 7 till 12. No corporal punishment was permitted for those belonging to the intellectual class. Certain penal methods were suggested which are employed to-day in dealing with political criminals—banishment, isolation, public reparation, etc.

We Hungarians deeply regret that that proposed law was never accepted by the Diet. If it had been it would have given a great impulse to penal reform in our country and it would have rendered impossible the project of 1827, which was reactionary. It was nothing more than a renewal of the Austrian code of 1803. It totally ignored equality before the law. It prescribed death in nine cases. It was a great boon that it never became a law.

It was an occasion of regret that the proposed law of 1843 did not become law. So great an authority as Mittermayer has asserted that no other penal code had so much originality as this Hungarian scheme. If I compare it with the Swiss code as to mitigating and extenuating circumstances, I may say that the Hungarian project of 1843 has analogous methods. If I take the Norwegian code and the Italian code, the two most typical of modern conceptions of reform, they often recall the proposed code of 1843.

To prove my statement, let me cite some of the distinguishing things that mark the high plane of this Hungarian scheme. It has no death penalty and no corporal punishment. It has no degrading punishments. There is no minimum penalty. The whole system is built up on the double division—crimes and misdemeanors. It recognizes but two ways of depriving one of liberty—imprisonment and

detention. It allows commutation of imprisonment into detention and detention into reprimand, for a reprimand, like a fine, is a penal method. Pardon is restricted to the penalty, except very rarely it may include the blotting out of the record. Aggravating and extenuating circumstances are classed in such a way as to do honor to the requirements of the most modern theories. The question of recidivism is treated according to the modern tendency. The penitentiary régime demanded by the bill is that of the cellular system, which competent authorities then regarded as the most perfect in Europe. The work is certainly a glorious creation of the judicial mind of Hungary. Many persons collaborated in this work, but one may say, without fear of contradiction, that the lion's share was done by that wise man of the nation, Francis Déak.

A part of the honor is due to Mittermayer, who exchanged numerous letters with the commission, showing the importance he attached to this work. It is to be regretted that the waves of political unrest buried this bill at the bottom of a deep gulf. It did not become law. Ladislas Fayer, my dear colleague, acquired imperishable reputation by the zeal with which he collected the material concerning this bill and for publishing it afterwards by order of the Hungarian Academy of Sciences. In this way we have at least preserved to posterity a rich and glorious historic souvenir. The bill was also printed in German, with notes and observations by Mittermayer, which were translated into Hungarian.

We now reach the period of absolutism and of the provisional régime in Hungary. There was no such thing as Hungarian penal law up to the time of the conference of ministers of justice, which took place in 1861. During that period it was in part the Austrian penal code of 1803 which was in force, later the penal code of May 17, 1852. That penal code was archaic and reactionary to the minutest details. In 1860 the decree of October was issued and this conference of ministers of justice was called. With two modifications of principle this conference re-established the old Hungarian practice. At that time the greater number of our laws were superannuated. Our judges had followed the usage of the Austrian code and it was therefore natural that all the jurisdiction of that period should feel the influence of that code. In that time of uncertainty the enlightened and bibliographic skill of Prof. Theodore Pauler of the University of Budapest exercised a great influence on public life. His Theory of Penal Law, which appeared about 1860, had almost the significance of a real code. The text of it is concise. With rare skill he succeeds in harmonizing the decisions contained in the bill of 1843 with the principles of Hungarian practice and the ordinances of the Austrian penal code.

After the reestablishment of the constitution the result of secular

contests was seen in the creation of the Hungarian penal code thirteen years later. The 1st of September, 1880, is the day when the new code compiled by Charles Csemegi went into effect. Csemegi is a penologist to the marrow of his bones, with the clearest of juristic brains. When he began his compilation, the new tendencies were vague. He was familiar with the literature of Europe on this subject, but he set himself to specially study the Austrian bill of 1870, the penal codes of Germany, France, Belgium, and Italy. His favorite penologists were Carrara, Brusa, Pessina, Lucchini, Hälscher Chauvau, Taustin, Helie, Rossi, Boitard, Haus, and Nippels. The character of his work may be called eclectic, without being on that account less independent. The principles generally adopted by foreign legislation were employed in editing the Hungarian penal code. It is evident that this code has its defects, but in speaking of them we must not forget that we speak with the experience which a quarter of a century has given. Still there are faults that one would have been glad to avoid at the time of the codification. One fault of this kind is in the multiplicity of penalties involving deprivation of liberty and commitment to workhouse, state prison, house of detention, house of correction, etc. These many regulations were voted only after long discussion and opposition in Parliament. Csemegi clung to these various kinds of penalties, hoping thus to meet the exigencies of individualization. But the result has been that this multiplicity of penalties has not only made their execution complicated, but it has been met by almost insupportable obstacles.

There is one great fault in its practical application, and that is that the minimum penalty to convict labor, two years, is too high. The minimum for several penalties is out of proportion, and the penalties for grand larceny, fraud, and forgery are much too light. Some crimes are badly defined. The penal régime for delinquents, vagabonds, and beggars can not be maintained if one accepts modern ideas about these classes.

In spite of these things the historian of penal law will pause at this chapter and pay homage to the memory of Csemegi. When later he was appointed to one of the chief posts of the magistracy, he worked with ardor and indefatigable zeal to establish a point of fertile contact between the practice of judge and the science of penal law.

A crowd of books and manuals on the subject of penal law have issued from the press. I will refer only to such names as Eugène Balogh, Isidore Baumgarten, Battlay, Werner, Doleschál, Finkey, Paul Angyal. Our law journals pay special attention to questions of penal law. The Society of Hungarian Jurists has for a long time treated exclusively questions of penal law, and that is still the main subject with which it deals.

The science of penal law is in a period of fermentation. The new tendencies are growing. The old are gradually yielding place to the new ideas. The results that are seen in reference to recividism, and the large proportion of minor offenders,, which statistics show, need not surprise us. It has been demonstrated that the means for the prevention of crime are not sufficient. We are beginning to study both the individual and the social causes of crime. Instead of the criminal act the matter of first importance is now considered to be the actor—that is to say, the broken law excites less sense of importance than the danger represented by the various classes of criminals. Psychologic and physiological investigations show differing degrees of responsibility that hitherto have not been sufficiently observed, and in the future penal law will pay more heed to physical and psychological tendencies.

We are opening our thought to new theories frankly and sincerely with the impartiality which alone marks the scientific method. But when a theory affronts the moral and judicial foundation of our Constitution, there we shall always be found its opponents. When one speaks rashly of "born criminals," or of "incorrigibles," or declares that a repeated recidivist, or a professional criminal, is incorrigible, then many of us will give such theories more than a cold reception. If you wish to make the indeterminate sentence the center of a penal régime, we may not be able to give our consent to such a plan, fearing too great an extension of the tyranny of public power and the possibility of a danger to the corner stone of our Constitution. On the other hand, we are always ready to adopt measures for the education and training of delinquent minors and morally abandoned children. We accept indeterminate and compulsory seclusion of alcoholics, vagabonds, and the insane, under guaranties assuring their individual liberty. We go further. Not only do we accept these provisions with a glad heart, but we acknowledge that they are absolutely necessary.

The majority of Hungarian lawyers think it is too early yet to speak of a radical change in the foundation of penal law, but we willingly unite with those who advocate any reform which promises to be salutary without touching the basis of the principles now in force. Our actions, however, speak louder than our words, and to show the activity of our wisest thinkers in the service of the new theories I have but to cite the work of the Society of Hungarian Jurists. François Vargham, Alfred Doleschal, two of our most eminent criminalists, Emile Moravcsik, one of our most eminent psychiatrists, have written works of great merit on the protection of childhood and on delinquent minors. I may not omit to mention the lectures and monographs of Reichhardt, Gruber, and Rusztem Vambéry on crimonology; of Schächler, Moravcsik, Salgo, Lukács, and Olah on psychiatry; of Ladislas Fayer, Eugene Balogh, Rusztem

Vambery, Elemer Balas, and Finkey on criminal policy. Each of these works is the echo that every serious attempt to put forward the new theories relative to penal law has called forth.

One of the most urgent reforms is the power of reprieve. That idea is popular with us because it is not a new thing here. It was in existence in the old Hungarian practice, especially in the jurisdiction of cities. The need of reform in penal administration is also under discussion and those who have suggested the best means of the solution of that question are Ladislas Fayer, Eugène Balogh, Charles Illes de Edvi, François Szekely, Maurice Keleman, and Finkey.

We have begun to recognize that it is truly superfluous to establish a criminal procedure based on a regard for every trifle. Perhaps the idea of compensation may be extended to meet many cases. The introduction of the reprimand would be to renew an old method under the former penal law of Hungary.

As to the care to be given to minors and the penalties to be inflicted on them, we desire to conform to the best new theories. As to fines, the public demands more and more that where these are irrecoverable they should be worked out. The rational reform of the fine as a penalty is demanded when it is known that there are twice as many men whose penalty is a fine than of those whose penalty demands imprisonment. It is intolerable to think that every year more than 50,000 persons who are condemned to pay a fine as the chief penalty are imprisoned instead. There are besides from 32,000 to 40,000 others who in addition to being sentenced to pay a fine as well as to suffer imprisonment, are deprived of liberty because they can not pay the fine. According to my opinion, in imposing a fine there should always be some regard to having that fine in accordance with the material position of the person sentenced.

The principle of individualization should be felt in the penal code, especially in that part which relates to the amount of the penalty.

As to aid for the prisoners after release, we feel that society should share in this work to a greater degree than it has in the past and that the state itself should take part in it, since it is the most powerful factor with which to oppose the growing tide of recidivism.

PENOLOGICAL PROGRESS.

Abstract of address by Dr. FRIEDERICH VON ENGELBERG, Director of the Penitentiary at Mannheim, Germany.

While at the opening of the eighteenth century the administration of prisons was absolutely deplorable, the nineteenth century shows an increased carrying out of penalties. This fact is little recognized to-day, when on all sides critics of the system of repression arise. This is owing to the powerful evolution of conditions and ideas which

have been produced in the social domain, an evolution which began in the last century and under whose influence we are still living. In all epochs of fermentation, if I may so express myself, the most radical ideas are those which spread fastest and which have the greatest success. So that to-day the great public receives with blind favor everything that is alleged with regard to the abuses in the execution of punishment, and it salutes with joy every proposition tending to weaken, or to dispose of the idea of punishment in repression. That tendency is not free from danger. Under the weight of public opinion the execution of punishment might be carried so far that it could not accomplish its social mission. It is therefore not only right, but it is absolutely necessary, to recall the improvements that have been made in the execution of penalties.

The first step in the way of progress was the introduction of the separate system. This afforded a remedy for the contagion which the comparatively good convict suffered from the thoroughly bad prisoner. It made necessary the erection of rational prisons, and at the same time it suffered the penalty to weigh more severely upon the condemned. The development of the cellular system led to the individualization of the prisoner, and this principle increased the efficacy of the penalty, the deprivation of liberty, whose purpose was not so much to restrain and curb the convict as to improve and reform him.

This plan of individualization showed the difference between the condemned and the effects of the penalty upon them.

Then came the attempt to introduce a progressive system by which the prisoner himself by his conduct could in a way determine what his treatment in prison should be like and by which he could also secure a shorter term of imprisonment than that to which he had been sentenced by the judge. Next came conditional liberation when the convict was reintroduced into the world outside, under the ægis of guardian societies, societies of eminent value, and which are increasing every day.

Youthful delinquents, those who have committed their first crime, are the objects of special solicitude. It is for them that the system of conditional liberation has been introduced and houses of detention have been built, where they may receive the discipline suitable to their age—that is to say, where they may be taught and trained.

It is from this idea of individualization that has come the idea of founding separate establishments for the care of tuberculous convicts and those who are mentally abnormal.

That is not all. Along with these principles which rule to-day in the execution of penalties we have seen other reformatory tendencies rising, due to the social revolutions of the latter part of the nineteenth century. It is seen that social conditions, if they are not the only cause, are at least the chief factor in criminality and that

leads us first of all to combat crime by means of a social nature. Hence the tendency of to-day, in many cases, to replace penalty by measures of prevention—for example, to interne in proper asylums individuals whose intelligence is insufficiently developed; to shut up those given to drunkenness, to imprison tramps in workhouses. and recidivists in jails.

One can not deny that these reforms have already effaced the old notion of punishment, and that the ancient principle of the law of vengeance and repressive justice has given place to methods which tend to keep malefactors from doing harm. To a near future belongs the mission of reconciling these principles, which are contradictory in more than one point, and of doing it in such a way that both the principles and the practice shall be vindicated.

JUVENILE DELINQUENCY.

Abstract of address by Mr. P. GRIMANELLI.

The lecturer considered only delinquents under the age of 16 or 18. He called especial attention to the social evils which result in juvenile crime, the causes of those evils, and the responsibility of those who bring them about, to show that any attempt at the solution of the problem of juvenile crime is insufficient unless these wider things are taken into consideration. He said that in any attempt to do away with crime among youth it was necessary to include means to prevent the moral abandonment and neglect of children. It is in this mass of morally neglected children that the germs of crime thrive most rapidly.

As the first cause of the evils from which spring these evils among children Mr. Grimanelli cited the absence of the real home, or its destruction by death, divorce, quarrels, or crime. A second cause he found in the neglect of the fireside made necessary when women are industrially employed in such a way that they must leave their homes and children. The street, into which the children are forced, can not replace either the home or the school. The bad housing of the poor, with insanitary and promiscuous life, is also a great cause of the evils of childhood.

Still another prominent factor, Mr. Grimanelli said, was the precocity of youth in this age. They are precocious in studies, in good habits, if they have them, and especially precocious in crime, because they are so quick to imitate bad examples and to accept bad suggestions. The contrasts between the very rich and the very poor and the anti-social attitude of the rich may also be considered a cause of wrongdoing in the young.

As to remedies, the speaker confined himself mostly to methods adopted in France, though acknowledging that theorists, legislators, and practical men throughout the civilized world show themselves

ready to accept advanced methods. But it is only since the second half of the nineteenth century that the question has been studied scientifically and at the same time with a large human altruism looking to curative and preventive measures.

In France penal colonies care for juvenile delinquents, but with an ever-growing tendency toward methods looking to reformation, by suitable education and proper discipline—a sort of moral orthopedic surgery. Society can no longer shut its eyes to the moral peril which creates juvenile crime and it is more and more commonly recognized that this being a social extremity the social body must be held responsible.

The new spirit which animates this preventive and reformatory work is the spirit which never dares to speak of incorrigibility. It is embodied in penologists, magistrates, administrators, and finds valuable auxiliaries in the guardian societies, in societies caring for children, in the bars themselves. Judges feel it and, in giving judgment, treat children in a different way from the manner in which adults are treated, refraining from giving short sentences, whose effect is deplorable.

The question of the age of discernment is being considered and it might be asked whether the question as to the age of discernment should be asked, whether it might not be better to sentence all delinquents under the age of 16 or 18 in order that time enough might be secured to effect their reform.

But who is the one to pronounce such a sentence upon children? In reply to this Mr. Grimanelli spoke with great sympathy and appreciation of the rapidly growing children's court in the United States, He also showed what might be accomplished by analogous institutions in Germany through her courts of guardianship.

Mr. Grimanelli held that except in the case of abnormal and backward children it was often a mistake to return wayward children to their parents; that reformatory training is for the interest of the child as well as for the interests of society. Besides, to secure the full advantage of the penal colony, or the reform school, the child should be young when so placed and should be kept long enough to get the good to be obtained there. He thought not enough credit was given to the intelligence, the heart, and the zeal of those who conduct them, nor to the favorable results which are obtained in spite of unfavorable conditions. He showed how the public colonies of France, by their instruction, their discipline, by the cultivation of the emotional nature, and especially by their moral instruction, reform the pupils committed to them. He related the various rewards which these pupils secure, the highest of which is to be allowed to serve in the army, where many pupils are now working for their

country with honor, some of them having earned the badge of under-officer, and a few having become officers. Mr. Grimanelli mentioned the punishments employed in these colonies: some are severe, but none are degrading. The happy method of suspending punishment has been introduced into the disciplinary régime.

The speaker described the placing out of children in good homes, on probation, depending on the school record and the ability of the child to work, and the apprenticing of them to useful trades. He praised the guardians and refuges organized by the public colonies, while giving due appreciation to the work done by private societies. He described especially the work of the agricultural colony of the Douaires directed by Mr. Brun, an educator of the highest rank, and that of the industrial colony of Anione, which, with other success, furnishes good subjects for the marine.

Not satisfied with speaking a good word for French institutions, Mr. Grimanelli spoke with much praise of what has been done for juvenile delinquents in other countries in Europe and America, emphasizing the excellent work in Hungary in this direction.

In closing he demanded not only a union of all instrumentalities for the prevention of crime, for fighting alcoholism, for education and apprenticeship, but demanded a better conception of the paternal power of government, made necessary by the duty of protection and education, and a stronger sense of social duty. Whatever is to be accomplished must be done through wisdom and courage, by the close union of the scientific method with devotion to the social order and a profound love of humanity.

MODERN TENDENCIES IN CHILD SAVING IN THE UNITED STATES.

Abstract of address by SAMUEL J. BARROWS, Commissioner for the United States on the International Prison Commission.

In treating the subject of child saving in the United States Mr. Barrows said that time would not permit him to present any historic review of American experience in this field. He contented himself with saying that in the United States they had largely profited by European experience.

It may be said that in the whole field of philanthropy there is no subject to which greater importance is attached or concerning which the new tendencies are more clearly marked than in relation to child saving. Never before has the question taken such a prominent place in the deliberations of our National Conference of Charities and Correction, and last year an independent national conference was organized which will meet annually to discuss the situation of backward children and dependent and delinquent children.

The tendencies noted by Mr. Barrows are the following:

1. It is everywhere admitted that the only thing necessary in a great number of cases to prevent a child from becoming a criminal is to change its environment. For many years children's aid societies have existed in some of the principal cities of the United States, and one form of activity has consisted in sending children from the populous cities of the East and placing them in families in the country in the Far West. This work has not taken the form of new colonies, but rather that of placing children individually in families already established. The development of new communities and new States in the western part of the country has favored this matter of child placing, and an examination of the results obtained, covering a period of years, has shown the great success with which this work has been carried on.

2. This work of changing the environment of children has undergone certain modifications in recent years.

(*a*) Instead of surrendering responsibility and sending children to distant localities outside of their jurisdiction a number of States have established their placing-out system so that children may be committed at the expense of the city or the State to good families, which are visited by voluntary or official inspectors clothed with the necessary powers. The placing-out systems in vogue in Massachusetts and in Michigan have already been described in detail in preceding congresses, and reports published in the proceedings. This form of work has had most fortunate results.

(*b*) When the interest of the child has seemed to require it the placing in a family has been preceded by a preliminary period in an institution.

(*c*) In the case of very young children efforts are made in Pennsylvania, Massachusetts, and other States to place the mother and the child when possible in a family where the mother can earn her board and at the same time have the privilege and responsibility of caring for her child.

3. The tendency to recognize and preserve the parental responsibility is recognized in other forms.

(*a*) In large cities, where the great problem is one of poverty rather than of criminality, it is only with great reluctance and when every other effort has been ineffectual that recourse is had to separating the members of the family and placing children in institutions or other families.

(*b*) In the city of New York the problem of child saving is intimately associated with that of immigration. It is difficult to construct school buildings fast enough to receive the great number of children who arrive every year. Instead of restricting immigration

the natural remedy is in distribution. The congestion, so to speak, is simply at the neck of the bottle; there is still plenty of room in our vast country. The Jews of New York, who number 600,000, have organized societies for the purpose of sending entire families to the South and West.

(*c*) With reference to delinquent children excellent results have been obtained in Colorado by a new law under which parents and guardians are made responsible for offenses committed by their children. One result of this law has been to deter parents from permitting or instigating their children to commit petty thefts or other offenses from which the parents derive some benefit. Similar laws have been passed in other States.

4. In exceptional cases the necessity has been recognized of protecting children by withdrawing them from the authority of their natural parents, and societies exist in different States for the protection of children against cruelty.

5. A new tendency, very marked in our new legislation, is seen in the passage of laws in a number of States for the regulation of child labor. These laws are combined with others relating to compulsory education. I regret to say that there is a great necessity for this movement in the United States. The temptation is strong in poor families to put children to work in factories before they are sufficiently developed physically and intellectually. The movement against this danger has developed into a national organization.

6. With reference to children accused of violations of law the most marked tendency in the United States is the establishment of children's courts. Having presented to the International Prison Congress a report on the subject, the introduction of which was also translated into French, Mr. Barrows referred his hearers to that work, and contented himself with showing that under the influence of these courts, with their official and voluntary probation officers, it is possible to save many children without taking them away from their homes.

7. As to establishments for young delinquents there are now some 98 in the United States for boys and girls. The most marked tendencies in these institutions is toward the cottage system, under which children are grouped in families in small separate buildings under the care of a house father and house mother. The object is to give the child by home life a suitable training and to supply influences which can not be furnished in a great institution.

A distinctive feature of the child-saving work in the United States has been the development of various means for the education of children in civic government. In Philadelphia, and also at the State normal school of New York at New Paltz, much has been done in

training pupils into the responsibilities of self government which rest upon mature persons in democratic communities.

A unique form of this same idea was the establishment and development in the State of New York of the George Junior Republic for wayward and delinquent children, which has been in operation for more than ten years with great success. The children are organized into a miniature republic and fulfill themselves the functions of police, judiciary, and administrative officers. A strong appeal is also made to the economic motive, and the boys and girls are paid for work done under a system of coinage which is redeemable at a certain rate in actual money. Junior republics have been established experimentally in two or three other States. The movement is a very interesting one in many respects, and has had valuable results when applied to boys and girls of a certain age amenable to social and economic appeals.

THE MATHEMATICAL AND STATISTICAL BASIS OF LEGAL CONVICTION.

Abstract of address by Dr. BÉLA FÖLDES, of Budapest.

Men seek justice in a world full of injustice. The speaker began by calling attention to the condemnation of Socrates. He was declared guilty by a majority of 30 voices. Then followed the question of sentence. It would have been easy for Socrates to avoid the punishment. His friends wished to deliver him, but he was severe upon the crowd who had condemned him, and he was sentenced to death by a majority of 101 votes. Seventy-one citizens who had found him innocent joined his enemies in inflicting the penalty of death. Where was the justice? We see that the judgment was influenced by indignation caused by the address of Socrates, full of pride and full of contempt.

So in the judgment of Jesus before Pilate. Pilate was convinced of the innocence of Jesus. You have there a judgment whose factors were the crowd on one side and the cowardice of the judge on the other.

How often is this sad tragedy renewed of the truth betrayed by an unjust judgment! In view of these factors, it is an interesting task to determine the probabilities of correct judgment. Two sciences help us in this respect—mathematics and statistics.

Condorcet was the first who, inspired by Turgot, carried such calculations into the domain of morals. He discussed the question: What is the probability of just judgments, and to what degree of error can society yield without alarm?

Condorcet was followed by Laplace, and he by Poisson. Cournot carried his calculations of the doctrine of chances much further.

But Professor Földes called attention to more important factors than those presented by the author's name. The decision rendered by the judge is naturally influenced by the knowledge of the judge, by his personal condition, his prejudices, and his personal political relations.

Other factors influencing the judgment are the character of the penal code, the frequency of offenses, public opinion, the character of the people, and the political situation. We may recall the Reign of Terror in France. There is always a great danger that public excitement may affect judicial judgment. A dangerous example of this interference is furnished by the Tichborne case, and also by the Dreyfus affair.

The interesting study of Tarnowsky includes many data concerning factors influencing the decision of judges. The French judges, it appears, show greater severity in dealing with theft than Russian judges; juries are more indulgent toward women, to the very youthful and the extremely aged, and also toward prisoners coming from their own social class.

These causes of difference should be reduced to a minimum. Whatever may be the perfection presiding over the administration of justice, it will always be liable to a certain number of inevitable errors. These errors will show themselves sometimes in the acquitment of the guilty, and sometimes in the conviction of the innocent.

Professor Földes concluded his comprehensive address by showing the value of reliable statistics in relation to this question.

CLOSING EXERCISES.

The closing session of the congress was held Saturday, September 9. After the finishing of the regular business the president, Mr. Jules Rickl de Bellye made the following address:

CLOSING ADDRESS OF THE PRESIDENT, JULES RICKL DE BELLYE.

LADIES AND GENTLEMEN: Our congress has finished its task and we have reached the end of our duties here. Assembled in large numbers the members have put at the service of our cause their vast theoretic knowledge and their practical experience. We have been able to reach conclusions with regard to each question marked by conscientious and wise deliberation, professional skill, energy, and determination, tempered by moderation. All of our discussions have been distinguished by praiseworthy and scrupulous care to keep to the subjects discussed.

The numerous papers sent to the congress, the reports of the reviewers, the section meetings, as well as the general sessions, have furnished us material concerning the questions before us of inestimable value. This, taken in connection with the resolutions adopted, gives us important results.

I think that we may resume our work with heads held high and the firm conviction that we have conscientiously fulfilled our duties. We may be credited with having done the task which we attempted. Let us return, ladies and gentlemen, with the firm resolution to let no occasion pass when we may stand for the triumph of justice and humanity. Let us do this in such a way that the sacred fire kindled upon the altar dedicated to the well-being of humanity may glow upon that altar, so fed by our knowledge and our enthusiasm that it shall never go out, not for one moment.

It was with warm sympathy that we awaited you here, ladies and gentlemen. We felt sure that without regard to nationality, obeying the impulse of fraternal love, coming from near or from far, you would all unite in the common combat for the public good. Your presence here has indeed so strengthened that fraternal bond during the days which have just sped that I confess the thought of the inevitable separation now close at hand is truly sad.

But before pressing your hands as we say good-by, it is my duty to tell you that the success of the congress is due, above all, to you. Accept then, ladies and gentlemen, the assurance of the warm gratitude which the International Prison Commission expresses to you, through the voice of its president, for your hearty and generous cooperation.

I would also thank the gentlemen who have acted as presidents of the sections, as well as the presidents of the general sessions, for the tact, wisdom, and care with which they have conducted the discussions.

Thanks also to the reporters for the great work they have accomplished and to the reviewers for the zeal and energy with which they have accomplished their difficult task.

Thanks also to the general secretary for the unwearied devotion which he has displayed in spite of many other heavy duties. Although we are accustomed to seeing him thus devoted to the work, yet the brilliancy of his accomplishments does not blind us. We easily distinguish his merits beneath the cloak of modesty which characterizes his sympathetic personality. These services have lasting value not only as concerns this congress, but in connection with every congress from the one in Stockholm until to-day. I am sure, therefore, that I make myself the interpreter of you all, ladies and gentlemen, when I express to him, in addition to our warmest thanks, our hearty wishes for long and complete happiness.

Thanks to Dr. Rusztem Vambéry and Dr. Eugene Borel, assistant secretaries, who did not hesitate to put at our disposition their knowledge and their zeal in organizing the present congress.

Thanks to the group of young men, assistant secretaries, who have lent their aid to the success of the congress.

Thanks finally, very sincere thanks, to the representatives of the press, who, following with keen interest the course of our work, have given proof of the sympathy they feel in our undertakings.

The congress of 1905 is about to close. It is for you, ladies and gentlemen, to decide where the next one shall be held. The Government of the United States of North America has just repeated, for the second time, its kind invitation to hold the next congress on the soil of the great Republic. Therefore, in accordance with the decision of the International Prison Commission, I have the honor to ask you, ladies and gentlemen, to vote unanimously that we accept the invitation to you to hold the Eighth International Prison Congress, in 1910, in the United States of North America.

I have the honor to also inform you that the International Prison Commission has named as my successor, for president of the commission, the Hon. S. J. Barrows, the first delegate from the United States of America. The commission also confirms M. Woxen as treasurer and Dr. Guillaume as secretary.

Vive the new president!

ADDRESS OF MR. SAMUEL J. BARROWS.

Mr. PRESIDENT, LADIES, AND GENTLEMEN: When I came over the ocean to take part in this congress, it was with great satisfaction that I was able to bring with me a communication from the Government of the United States inviting the International Prison Congress to hold its eighth session in our country. When I return to America I shall take to our Government and our people the good news that that invitation has been warmly accepted.

The attention of the Congress of the United States was drawn to this subject by our Secretary of State, the late Hon. John Hay, whose ardor and devotion in the cause of peace and humanity are everywhere recognized. The Senate, as well as the House of Representatives, unanimously adopted a resolution authorizing and *instructing the* President to transmit this invitation.

After receiving my instructions from the Department of State

in Washington, I had the honor of a personal interview with President Roosevelt. Personally, as well as officially, Mr. Roosevelt assured me of his lively interest in the great problems which this congress discusses and tries to solve. He fully appreciates the importance of these questions in connection with our modern civilization. Distinguished as our President is in many fields, he is no amateur in subjects pertaining to charity and penology. For some years before he was called to Washington he was the vice-president of the Prison Association of New York.

Ladies and gentlemen, it is not too soon to bid you welcome to the United States. You will find in America an old land, but a new people. You will find there so many strangers that you will not feel strange yourself. No matter where you go nor from what country you come, you will find in America your compatriots. You will find them not only as recent immigrants, but as citizens of the American Republic, making and administering its laws. Even if you go into our prisons you will find men speaking your own tongue—not all of them keepers.

We have our own problems in America as well as the problems which we share with you. Come, dear friends, and help us to settle these difficulties in our life, and thus aid us in solving with you the problems of civilization.

Ladies and gentlemen, I accept with gratitude, in the name of my country, the honor which you have conferred upon me. I am conscious of the great responsibilities of the position to which I have been called, and if I have the courage to assume those responsibilities it is because my noble and generous predecessor, M. Rickl de Bellye, and my colleagues on the International Prison Commission have given me the assurance of their cordial assistance and cooperation. But most of all I count on our general secretary, our dear Doctor Guillaume, as my guide. Thirty-five years ago he helped to organize the first congress, and since then, with an insight and devotion which have been unvarying, he has consecrated a large part of his honorable and useful life to attain in spite of immense difficulties, his noble purpose and exalted ideal.

ADDRESS OF SENATOR PIERANTONI, FIRST DELEGATE FROM ITALY.

LADIES AND GENTLEMEN: The sad hour of farewell has come. We are about to return to our own hearthstones. My colleagues have commissioned me to express to you our warmest feelings of gratitude for the generous reception you have accorded to us. I accept this task with pleasure. Your reception is a proof of your sympathy with Rome, the alma parens, the ancient country of law, which, in its third renaissance, is becoming a good workman in the progress of justice and international solidarity.

We all thank each of you who have worked to such purpose in making a success of this congress. We thank the city of Budapest, in the person of its chief magistrate, for the brilliant reception given to us in that fairy-like excursion upon the Danube. The millions of lights which sparkled upon the palace walls of this noble capital, and which were reflected in the waves of the great river, were symbols of the lively sentiments which animate the Hungarian people in their

hope for a time of better justice. Old is the cry, "Fiat justitia, et pereat mundus." ["Let justice be done though the world perish."] Let us say on the contrary, " Fiat justitia, ne pereat mundus." [" Let justice be done lest the world perish."]

I thank my colleagues for their command to me to express their regret at the absence of Mr. Doria, the worthy successor of my confrere, Senator Beltrani Scalia, who, having given up the direction of the prisons of Italy, is still associated with our work in thought and in deed.

I have just received a telegram from Mr. Beltrani Scalia, our honorary president: " Profoundly touched with the honor which has been done me, and I pray you to express my appreciation." I gladly acquit myself of this commission.

Allow me to salute the ladies, who have brought into our work strength and delicacy of sentiment, tempered by the duty of social justice. Madame de Stael said one day to Napoleon, " Genius has no sex." But women—wives, mothers, daughters—always bring a spirit of self-sacrifice which is stronger than the courage of men. On the field of battle they bind up the wounds of the soldier; in the prisons they are ready with assistance; in the care of children and the reformation of the young they are angels of charity and of reformation to struggling souls.

I close with the wish that we have read all along the shores of the Danube " Au revoir," and I ask you to shout " Vive la Hongroie! "

ADDRESS OF MR. F. L. DE LA BARRA.

M. F. L. de la Barra, envoy extraordinary and minister plenipotentiary from the Mexican States to Belgium, and delegate of the Mexican Government to the congress, said:

Mr. PRESIDENT, LADIES AND GENTLEMEN: Allow me, before we part, to express to you the wishes of my Government for the success of this congress, a success which was assured in advance by the skill and devotion of the committee of organization, by the wisdom and prudence of our distinguished president, by the lofty spirit and practical way in which you have united the love of science and the love of humanity.

Mexico, a young country, which is bravely working for progress (as our penal laws and penitentiary regulations show, and even more the zeal with which those laws and regulations are applied), has followed with interest the work of your former congresses and has profited by your experience in penological matters. She applauds the generous efforts which you have put forth for the common good, believing that life, as one has said, is a field where one may sow at large and gather with full hands, if one has only a little love and a little hope. You, gentlemen, have a great and holy love, a firm hope and a steady will.

To other wishes permit me to add my own for the prosperity of this wonderfully beautiful city, and for this Kingdom which has received us with the old and glorious traditions of hospitality, of courtesy, and of nobility.

After a unanimous vote to accept the invitation to the United *States the congress* adjourned at 11 o'clock with repeated cries of *" Vive la Hongroie."*

HUNGARIAN HOSPITALITY.

The proverbial hospitality of Hungarians found expression in various ways during the ten days that the delegates were in Budapest.

The first was a reception on the evening of the first day of the congress at the royal castle of Bude. The official delegates, and many other gentlemen in attendance were received by the Archduke Joseph in the name of his majesty, the Emperor. Men from many different countries mingled in the beautiful reception hall and most of them had an opportunity for a little chat with the royal host during the two hours of their stay in the palace.

RAKOS-PALOTKA.

Two excursions were made to industrial schools for youth. The visit to the one for girls at Rakos-Palotka took place on Sunday afternoon. This admirable industrial school shelters and educates about a hundred girls. It had been opened about a year and a half, and is a model af its kind. The girls are all minors. After a brief period of isolation they are placed in different cottages, according to the classification of those in charge. Eight such cottages make up the school, along with three chapels for the chief faiths, and the schoolrooms. There is a little stable where a cow and fowls are kept, that the girls may learn how to care for milk, to make butter, and raise poultry. The work for caring for the homes is all done by the girls, in addition to sewing, embroidery, and flower making. Everything was exquisitely neat, and the needlework and flowers were admirably wrought. A most agreeable impression was left in the minds of all who had the pleasure of this glimpse of country life for wayward girls.

BANQUETS.

Two official banquets, given by the royal Government of Hungary furnished opportunities for social enjoyment as a relief from the more serious work of the congress. The first was held in the Hotel Royal, where 450 invited guests sat down to tables loaded with every luxury to be found in the beautiful city. Flowers and music added their charms. After-dinner speeches were made by Mr. Skousès, of Athens, Mr. Grimanelli, of Paris, and Mr. S. J. Barrows, of New York, who read a short address in Hungarian as a compliment to the many Magyars present, which called for a special word of thanks from Mr. de Megyery, the royal chamberlain. Toasts were also offered by Hon. B. de Lanyi, minister of justice, and the president, Mr. Rickl de Bellye.

The second banquet was held in the shades of the Bois de Ville in a spacious pavilion, where toasts were drunk and many kind words were said to the guests from abroad.

Mr. and Mrs. Rickl de Bellye also opened their charming home to the strangers, inviting them to an evening gathering, where the genial hostess not only presided with grace over a table spread with delicacies from many a clime, but greeted these strangers with such cordiality as to almost make them forget they were so far from home.

Other homes welcomed smaller groups, so that the feeling of warm-hearted hospitality was felt by all.

THE DANUBE FÊTE.

The climax of beauty and charm was in the fête on the Danube, a never-to-be-forgotten scene of beauty. Everything contributed to the exquisite picture, the clear, dark-blue sky, dotted with stars and a silver moon, the illumination of both shores of the majestic river, the myriad lights on the river craft, the Bengal lights burning before the picturesque old castle on the heights, lighting up the fountains and showing the profiles of the church towers and quaint old buildings. It was like a chapter out of Aladdin and His Wonderful Lamp. The guests were on a steamer which floated slowly down the stream, amid all this loveliness, feasting their eyes with beauty, their ears with brilliant Hungarian music, and their lips with more material things. Only Budapest, the queen of the Danube, could furnish a setting for such an enchanting picture, and only the Hungarian people could unite with such gracious hospitality the exquisite taste and warm-hearted friendship that will keep ever fresh in the hearts of those so happy as to be there the memory of the Danube fête.

THE JUVENILE REFORMATORY OF KASSA.

The congress spent one day at the close of the meetings in visiting the reform school at Kassa. The following description of the school was written by Isabel C. Barrows, of the Prison Association of New York:

There are in Hungary four reform schools for boys and one for girls, all under the same authority, the minister of justice, and practically under a similar régime, the cottage plan, though differing in the degree to which technical education is carried out.

In 1902 it was found that the methods adopted up to that time did not meet all the requirements for lessening juvenile crime. The reform schools of different countries were visited and a system best suited to the people of Hungary was formulated. This had for its foundation the home idea, though the minister of justice frankly confessed that in these cottages under the care of a man there would lack the most important element in family education—the mother of *the* family. He thought the system, however, far preferable to *any system based on* military rigidity and severity.

The families are limited to 20 inmates, and the head of the family or his substitute, is always present to guide, watch over, and inspire the boys.

After trying both methods the people of Hungary decided that it was unwise to make two classes of children who need State care. If some children have been arrested and found criminal, they are not after all different from many others from exactly the same surroundings who have not been caught. They are of the same stock, and with insufficient guardianship and bad homes they are likely to become criminals. They are therefore received into the same institutions, which are not in any sense prisons. They are considered schools, and the inmates are called boarders or pupils.

The boys are classified by their occupations. Each family is a unit, whose members never come in contact with the other families, except on Sundays at service, when they are not allowed to converse. If more than one cottage is following a certain industry the older boys are together in one and the younger in another.

When received, each newcomer goes into solitary confinement for a certain period, in the reception cottage, where he is visited daily by the director, the religious helper, the doctor, and the foreman who keeps him supplied with some kind of work. The boy's history is learned, his character is studied; he is influenced for good, his tastes are learned, his capability gauged, and when the director sees fit the boy is placed in the family which is to be his home till he is of age, or till he has so completely mastered his trade or calling that he can go out, not as an apprentice, but fitted to take his place as a workman. Along with this high training for the hands go school work and moral and religious instruction.

Hungary has now provision for 940 boys up to the age of 20, and for 240 girls. The schools having the highest grade of teaching are at Aszod and Kassa.

At Kassa there are 12 cottages with 20 boys in each family. The daily life is simplicity itself. The beds are spotlessly clean and well made by the boys themselves. The dishes consist of a cup, a plate, a spoon, a knife, and a fork, also clean, washed by the boys. Each boy has his own set, which he keeps in his locker. He has also a small, ventilated locker for his simple wardrobe, or change of clothes. They wear uniform clothing, the beauty of which is in its absolute cleanliness. Cleanliness is considered a means of moral reformation.

The diet partakes of the same simplicity, but it is based on scientific study, and it is found that the boys gain in weight and strength steadily under it. It is the same in all the reformatories, with extra food for the sick if ordered by the physicians. In general it may be said that it consists of four repasts daily. The bread, 2 pounds, is divided into four rations. For breakfast they have in addition one-

third of a quart of milk. For dinner, four times a week a pint of flour soup and some vegetables; three times a week, besides the vegetables, bouillon and 3 ounces of beef. Seven times a year, on festival days, they have for dinner 13 ounces of roast pork or veal; for luncheon, half a pint of milk or an ounce of butter with their bread or some fruit; for supper, a pint of soup five times a week and twice a week vegetables. They are not allowed to buy any sort of food, but those who have good marks may receive things from home on holidays. Great care is taken that the food shall be excellent in kind and properly cooked in the central kitchen, whence it is distributed to the cottages. The table for meals is set by each boy putting on his own dishes. No tablecloths are used. The large living room is used for an eating room and in the evening for a study.

The academic work is carried on with relation to practical life, and no time is wasted. There are different chapels for the different religious teachers—Catholic, Jewish, Lutheran, and Calvinistic. Great stress is laid, not on any particular confessional, but on the devotional attitude in life, and nothing is done without acknowledgment of the divine source of power.

Four separate industries are carried on, each in charge of expert teachers. There is first the outdoor work, which includes gardens, lawns, greenhouses, orchards, market gardens, fields. The boy who goes through the course has, in addition to a knowledge of the various methods of cultivating the soil, a knowledge of grains and plants, fruit trees, vines, wine making, silk raising, draining, and landscape gardening.

The next department, leather work of all kinds, gives similar practical and technical instruction. In shoemaking, for instance, the boys must learn the anatomy of the foot, the relation of bones, ligaments, muscles, joints, nerves, and tendons to each other in the normal foot, and also the abnormal. They must be able to show all these things by drawings. Then they must learn all about leather and its special use for a foot covering. They cut the shoes, boots, sandals, and ties by patterns which they have drawn themselves, cutting them first in paper before constructing them in leather. This industry includes the making of trunks, valises, portfolios, saddlebags, toilet cases, and portemonnaies.

The wood industry is mainly cabinet work, inlaid, highly polished, and truly artistic furniture.

The fourth department is textile. The smaller boys wind bobbins with threads of various kinds. From that every branch of weaving and spinning is taught, from the simple hand loom for rags up to the intricate Jacquard loom with its roll of handsome silk tapestry. Strong, serviceable linen towels, beautiful damask tablecloths, with

genuine Hungarian designs, heavy draperies, floor rugs, soft and rich in color and firm in consistency, are some of the products falling from these many looms, one or two of which were imported from America.

Not only do they learn to make the whole of any one object and to make it as well as it can be made by hand, but they also learn the use of machinery, all the power being electric, so that they are capable of going into the best type of shops and factories when they are out in the world again.

The course is four years and the boys work from forty to fifty hours a week at their trades, besides having twenty-one hours at their books.

They receive wages for their work, a certain proportion in each department. This is not paid to them in cash, though half of it may be used for friends in need. The rest is held for them till their final release, except a proper amount that may be used to purchase books, musical instruments, tools, drawing material, or similar things.

Every boy has his conduct book, in which his marks for conduct, application, and diligence are entered every week, so that he may see how he is getting along as the weeks pass.

Rules for the guidance of all the reformatories are issued from the department of justice. The discipline is uniform everywhere, as nearly as possible. The hours of meals, the time of rising and retiring, are all prescribed; the director has only to carry them out. The number and kind of garments for each boy and girl are given, what they may wear at night and what not, and it is ordered that the bed covering must come only to the height of the chest, and that the arms must be free outside the cover.

Strict regulations for the heads of families, teachers, assistants, the chaplains, and doctors are laid down. The " curator " of each school is held responsible for any damage that his vigilance might have prevented, and he must deposit the amount of a year's salary to meet such losses before he begins his work. The doctor must carefully report on each boy. The chaplains are warned not to preach over the heads of their hearers and to make more of the substance of religion than its shibboleths.

A " domestic council," made up of all the officers of a school, must consult every month and send their findings to the department of justice. Annual examinations take place and certificates are given showing what each one has accomplished. At the age of 20 the inmates are released, but they may be released conditionally before that time if they can earn their own living. A good many pay something toward their own expenses while in the school. If the parents are not morally suitable persons to receive their sons and daughters the young people are placed in probation elsewhere under the " patronage " system. A record is kept of all who leave.

INVITATION EXTENDED BY THE UNITED STATES.

The following is the message of the President to Congress presenting the correspondence and documents in relation to the extension by the United States of the invitation to the International Prison Congress to hold its eighth meeting in Washington in 1910.

To the Congress:

I transmit herewith a report by the Secretary of State, showing the acceptance by the International Prison Congress of the invitation to hold its next meeting in the United States, extended in pursuance of the joint resolution approved March 3, 1905.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 22, 1906.*

The President:

In pursuance of the joint resolution of Congress approved March 3, 1905, the President on June 19, 1905, extended to the International Prison Congress an invitation to hold its eighth meeting in the United States at such time and place as should be determined by the executive committee of the Prison Congress, known as the International Prison Commission.

This invitation was presented to the International Prison Congress at its meeting at Budapest in September last by Mr. Samuel J. Barrows, the commissioner of the United States, and was accepted. The meeting will be held in Washington in 1910.

I have the honor to submit, with a view to their transmission to Congress for the information of that body, copies of the following papers:

(1) The joint resolution of Congress.

(2) The invitation extended by the President in pursuance of the resolution.

(3) The instructions to Mr. Barrows to present the invitation.

(4) The formal acceptance of the invitation by the International Prison Congress (translation).

(5) Report of Mr. Barrows.

Respectfully submitted.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, January 17, 1906.

[PUBLIC RESOLUTION—No. 22.]

JOINT RESOLUTION Authorizing the President to extend to the International Prison Congress an invitation to hold the Eighth International Prison Congress in the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and is hereby, authorized and requested to extend to the International Prison Congress an invitation to

hold the Eighth International Prison Congress in the United States at such a time and place as may be determined by the executive committee of that congress, known as the International Prison Commission.

Approved, March 3, 1905.

THE WHITE HOUSE,
Washington, June 19, 1905.

SIR: I have the honor to inform you that the Congress of the United States of America, by a joint resolution approved March 3, 1905, authorized and requested the President of the United States "to extend to the International Prison Congress an invitation to hold the Eighth International Prison Congress in the United States at such time and place as may be determined by the executive committee of the congress known as the International Prison Commission."

In pursuance of this action by the Congress of the United States, I have the pleasure to extend to the International Prison Congress an invitation to hold its eighth meeting in the United States at such time and place as may be determined by the executive committee aforesaid.

In doing so I desire to express the hope that the International Prison Congress will be pleased to accept the invitation thus extended.

THEODORE ROOSEVELT.

The PRESIDENT OF THE INTERNATIONAL PRISON CONGRESS.

DEPARTMENT OF STATE,
Washington, June 19, 1905.

SIR: I inclose herewith an invitation which, in pursuance of the joint resolution of Congress approved March 3, 1905, the President has addressed to the president of the International Prison Congress to hold its eighth meeting in the United States at such time and place as may be determined by the International Prison Commission.

The Department will be pleased to have you appropriately present the invitation.

A copy of the invitation is inclosed herewith for your information and files.

I am, sir, your obedient servant,

F. B. LOOMIS, *Acting Secretary.*

SAMUEL J. BARROWS, Esq.,
Commissioner of the United States,
International Prison Commission.

[Translation.]

Mr. THEODORE ROOSEVELT,
President of the United States of America, Washington.

MR. PRESIDENT: The International Prison Commission acknowledge with satisfaction and gratitude the invitation received through your worthy delegate, Hon. S. J. Barrows, our president-elect, to hold the Eighth International Prison Congress in the United States in 1910.

The International Prison Commission received with pleasure this warm and generous invitation and communicated it to the Seventh International Congress during its session in Budapest September 9, 1905. With hearty unanimity the

congress voted to accept the hospitality so generously proffered by the United States.

In bringing this to your notice, permit us, Mr. President, to express to you the deep and sincere gratitude of the International Prison Commission and of the Budapest Congress. We hardly know how to find words to describe the importance which we attach to your action. We have not forgotten that it is to the United States that we owe the initiative for the movement in favor of international prison congresses and that it was the delegate of General Grant, the revered Doctor Wines, who organized in London in 1872 the first congress of the series and assured the success of the one in Stockholm in 1878. In this way the attention of various governments was awakened in favor of this congress. For this reason we owe a debt of gratitude to the United States which can never be extinguished, but which we shall be happy to have an opportunity to express to your great nation in 1910.

But the country which welcomes the International Prison Congress as its guest does not by its hospitality simply bring together under official sanction, from all parts of the world, those who are interested in the struggle against crime; it offers at the same time to those interested in this great task an opportunity to see what has been accomplished in the way of reforms. The experience thus acquired by these object lessons is not the least valuable result of an international prison congress. Your kind and gracious invitation has not only touched us, because we see in it a mark of your sympathy with our work—a sympathy which is for us the most precious of encouragements—but we respond to the call of the President of the United States with alacrity, because we know already through your books, your periodicals, and the words of your representatives the extensive and very satisfactory accomplishments which have placed the United States in the first rank among nations rationally and energetically fighting the scourge of crime.

We have been surprised and have rejoiced to know the results obtained by such institutions as Elmira and the children's courts and others still which we can not enumerate here. Knowing how slow and how difficult is the march of progress, we rejoice in the thought that the meeting of the International Prison Congress in the United States will be a powerful stimulant for representatives of all countries by letting them know by actual contact, by putting their finger on them, as one might say, the improvements and the reforms which you have introduced into your great country and which serve as examples to other nations.

Reiterating, then, our sincere satisfaction and our respectful gratitude, we have the honor to advise you, Mr. President, that we accept with pleasure and thanks your gracious invitation. We anticipate successful and fruitful results of the International Prison Congress to be held in Washington.

Accept, Mr. President, the assurance of our very high esteem.

In the name of the International Prison Commission and of the Congress of Budapest,

JULES RICKL DE BELLYE, *President.*
Doctor GUILLAUME, *Secretary.*

BUDAPEST AND BERN, *September, 1905.*

INTERNATIONAL PRISON COMMISSION,
January 9, 1906.

The PRESIDENT.

SIR: As commissioner for the United States on the International Prison Commission I was charged with the duty of presenting to the commission a communication from you, transmitting an invitation, in conformity with a resolution of Congress passed March 3, 1905, inviting the International Prison Congress to hold its eighth session in the United States. The invitation thus authorized and extended was officially presented by me to the International Prison Congress at its meeting in Budapest September 3–9, 1905, and was received and accepted with great enthusiasm. The commissioner for the United States was elected president of the International Prison Commission.

I am, sir, your obedient servant, SAMUEL J. BARROWS.

INDEX.